



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: July 19, 2011

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Appeals Of Decisions Of The Planning Commission And The Single Family Design Board Regarding A New Residence And An Additional Dwelling Unit At 1233 Mission Ridge Road

RECOMMENDATION: That Council:

- A. Deny the appeals of the Law Office of Marc Chytilo representing Judy and David Denenholz; and
- B. Uphold the decisions of the Single Family Design Board for Project Design Approval and the Planning Commission's denial of a prior appeal of the Staff Hearing Officer's approval of a Performance Standard Permit for an additional dwelling unit making the findings included in the Council Agenda Report and subject to the Conditions of Approval in Planning Commission Resolution 005-2011.

EXECUTIVE SUMMARY:

On March 10, 2011, the Planning Commission approved a Performance Standard Permit for the construction of an Additional Dwelling Unit on the property located at 1233 Mission Ridge Road. The Planning Commission decision was made on an appeal from a prior approval of a Performance Standard Permit by the Staff Hearing Officer (SHO). The Planning Commission decision was appealed on March 17, 2011.

On May 10, 2011, the Single Family Design Board (SFDB) granted Project Design Approval for the proposed project. An appeal of the SFDB's Project Design Approval was filed on May 5, 2011. The project consists of a new single-family residence and an Additional Dwelling Unit with garages. The project review by the Planning Commission, and the SFDB, over the course of several meetings, included careful consideration of the project based on City standards for design, neighborhood compatibility, and environmental review.

This report responds to the concerns raised by the appellant, and provides brief explanations on why Staff, the SFDB, Staff Hearing Officer and Planning Commission believe the project is consistent with all applicable policies and ordinances.

DISCUSSION:

Project Description

The project consists of a proposal to demolish an existing residence, accessory building, and detached garage totaling 2,847 square feet, and construct a new single-family residence and an Additional Dwelling Unit on the project site. The new single-family dwelling is proposed as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, a 192 square foot workshop, a 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. The proposed Additional Dwelling Unit is a 920 square foot one-story residence, with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house.

Project History

On January 26, 2011, the Staff Hearing Officer (SHO) reviewed and approved a Performance Standard Permit to allow an Additional Dwelling Unit on the lot.

On February 7, 2011, the SHO's approval was appealed to the Planning Commission by March Chytilo on behalf of Judy and David Denenholz, owners of a property at 1231 Mission Ridge. The Planning Commission Staff Report dated March 3, 2011 is attached as Attachment 5.

On March 10, 2011, the Planning Commission (PC) denied the appeal and upheld the SHO's approval. PC Resolution #005-11 is attached as Attachment 7.

On March 17, 2011, the PC's denial of that appeal was appealed to the City Council. The appellant's appeal letter is attached as Attachment 2.

Staff, anticipating an appeal of the Project Design Approval, allowed the project to continue through the Design Review process so that if a second appeal was filed, both appeals could be heard by the Council at one appeal hearing.

On April 25, 2011, the Single Family Design Board (SFDB) granted Project Design Approval for the proposed project by a vote of 6/0/1. This approval included the new house with its accessory structures and the Additional Dwelling Unit. The SFDB minutes are attached as Attachment 4.

On May 5, 2011, the SFDB's approval was also appealed to the City Council by Marc Chytilo representing the Denenholzes. The appeal letter is attached as Attachment 1.

Appeal Issues (Note: Some appeal issues raised by the appellant are grouped and given a single staff response):

Performance Standard Permit

Chapter 28.93 of the Municipal Code allows for the construction of additional dwelling units on single-family lots through the approval of a Performance Standard Permit (PSP). The criteria for granting a PSP require that the lot have at least the minimum lot area required for the zone for each dwelling unit, that it have adequate ingress and egress, and that the location of the additional dwelling complies with all applicable ordinances.

The subject property is located in the Hillside Design District and is zoned E-1. The property has an average overall slope of 8.94%, which requires a minimum lot area of 15,000 square feet per unit. This 31,584 square foot property provides adequate lot area for two residences. Access to the lot and ingress/egress to each unit will be provided by the existing driveway off Greenridge Lane. The location of both proposed residential units conforms to the requirements of the Zoning Ordinance as described in the PC Staff Report.

A letter dated March 4, 2011, was submitted prior to the PC hearing, and raised additional concerns related to adequate street frontage, building height and site drainage. Staff addressed these concerns at the Planning Commission hearing as summarized below:

- **Street Frontage:** The project site is legally nonconforming to the requirement for 90' of public street frontage in that it does not have any public street frontage. The proposal does not increase the nonconformity of the lot.
- **Building Height:** The building, at its highest point, which is the master bedroom, is 28'-6", which complies with the Zoning Ordinance. The project has been reduced in height and the SFDB has reviewed the building multiple times, and found that the size and massing are appropriate for the size of the lot and the surrounding neighborhood.
- **Site Drainage:** The project site is located in the Hillside Design District and therefore required to retain and treat the 1-inch, 24-hr storm event. The project complies with the City's Storm Water Management Program.

Categorical Exemption

The appellant states that the project cannot be found categorically exempt from CEQA because: a) the project is too large to qualify for the small structures exemption; b) unusual circumstances preclude the use of a categorical exemption; c) the project site is located in a particularly sensitive environment; d) the cumulative impacts of the project and other past, present, or reasonably foreseeable future projects present a potentially substantial adverse effect on the environment; e) the City has not adopted thresholds of significance; and f) the Staff Hearing Officer's findings are not in compliance with CEQA. The appellant argues that an environmental impact report must be prepared before the project may be approved.

The City's Environmental Analyst Staff have examined the site, reviewed the proposed plans, considered the appellant's concerns, and determined that the project will not result in a project specific or cumulative significant effect on the environment due to unusual circumstances or its location in a particularly sensitive environment. The project qualifies for a categorical exemption from further environmental review pursuant to the California Environmental Quality (CEQA) Guidelines Section 15303 New Construction.

The Appellant does not raise any new issues from the Planning Commission appeal Hearing of March 10, 2011. Please refer to the Planning Commission Staff Report dated March 3, 2011 (Attachment 5) for a full discussion of the CEQA and Performance Standard Permit Appeal issues.

Consistency, Appearance and Compatibility (Appeal Issues #1, 2 and 8)

The appellant states that the proposed project is inconsistent with the scenic character of the City, and does not enhance the appearance of the neighborhood and that the SFDB did not make sufficient findings for neighborhood compatibility.

The SFDB has reviewed the proposal on five occasions (Attachment 4). At the first two meetings the Board requested that the applicant significantly reduce the square footage of the building as well as the size, bulk and scale. When the project returned for a third review, the Board provided positive comments and stated their appreciation for the reduction in square footage and the quality of architecture. Story poles were installed and a site visit was conducted by the members of the Board for a fourth review held on March 28, 2011. The applicant worked with the SFDB and the neighbors to further reduce the size, bulk and scale of the project and to lower the ridge heights. At the last meeting on April 25, 2011, the SFDB stated that the Neighborhood Preservation Ordinance criteria had been met and gave the project a Project Design Approval. One member abstained from the vote due to being absent at a prior meeting.

1. Height – The buildings comply with the maximum height of 30' in the E-1 Zone. The recommendation in the Single Family Residence Design Guidelines for homes to be no higher than 25 feet is intended for small lots where there is less room between structures, the property lines and the adjacent homes. The portion of the building that reaches 28'-6" is located towards the center of the lot approximately 75 feet from the westerly property lines, 56 feet from the northerly property line, and 65 feet from the southerly property line.
2. Floor Area Ratio (FAR) - There is no provision in the ordinance defining FARs for lots with Additional Dwelling Units. Staff directed the applicant to compute the FAR as if the project was two lots. Therefore, one half of the lot would be designated for the ADU and the other half of the lot for the main residence. Using this direction, the FAR for the main house is 99% of the maximum guideline FAR and the FAR for the ADU is 34% of the Max FAR.

3. The size of the porches have been reduced and they are a significant distance from the property lines; therefore, they do not encroach upon the privacy of adjacent neighbors.
4. The applicant is complying with the requirement for covered parking. Storage areas are permitted as long as they are separated from the garage space curb or wall.
5. The second story has been reduced in both height and area, to the satisfaction of the SFDB. The second story portions of the project are a significant distance from the property lines and adjacent neighbors.
6. The project will be constructed using high quality materials and the SFDB stated that the project was compatible with the neighborhood.

Trees (Appeal Issue #3)

The appellant states that the project is not consistent with the General Plan because mature trees are not being integrated into the project and the SFDB must find that healthy, non-invasive trees must be preserved.

The applicant has provided an arborist report (Attachment 8) and the recommendations for tree protection during construction are proposed as conditions of approval (See, Planning Commission Resolution No. 005-11, Attachment 7).

Health, Safety and Welfare (Appeal Issue #4)

The appellant states that Greenridge Lane poses significant safety risks for residents and guests in emergency evacuation and compromises emergency vehicle access.

The City Fire Department reviewed the fire access at Greenridge Lane, the proposed project plans, the development served by the lane, and has driven City fire equipment up the lane. The new structures will be equipped with automatic fire sprinkler systems whereas the existing buildings are not. The proposed landscaping is designed to comply with the High Fire Landscape Guidelines and Defensible Space requirements. The existing accessory building on the property does not meet fire access standards because it is 269 feet from the end of Greenridge Lane. The new Additional Dwelling Unit will be 150 feet from the end of the lane and the main house will also be constructed closer to that access point. Therefore, the proposed project (which would remove all existing improvements) will substantially increase the level of fire safety on this property when compared to the existing conditions. The proposed project will remove deficiencies on the current property concerning access, and include fire resistant construction and sprinkler requirements of the 2010 California Fire Code. For these reasons, the Fire Marshall has determined that the proposed project would not expose people or structures to significant risk of loss, injury or death involving wildland fires. For a more detailed discussion, please refer to the Planning Commission Staff Report dated March 3, 2011 (Attachment 5).

Good Neighbor Guidelines (Appeal Issue #5)

The appellant states that the applicant has not made a good faith effort to address the invasion of privacy, the blockage of neighbor's views or the effect of the project's large mass, bulk and scale upon surrounding properties.

Neighboring residents have expressed concerns about the proposed project's effects on their private views. The applicant installed story poles for review by the Single Family Design Board. With direction from the SFDB, the applicant has revised the project to address the neighbor's objections.

Public Views (Appeal Issue #6)

The appellant states that the site is visible from nearby homes and that it will block views.

The proposed project would not block views of the ocean or mountains from major public viewing locations. While the project will change private views for a few of the adjacent residences, important scenic views and vistas of the larger community will not be impacted. The proposed project retains existing mature oak trees on the property, involves minimal grading, and is located in an area already fully developed with single-family residences. The SFDB found that the project will not substantially degrade the visual character or quality of the site, or significantly adversely affect day or nighttime views in the area.

Natural Topography Protection and Grading (Appeal Issues #7 and 9)

The appellant states the project proposes excessive grading and will require a substantial amount of pavement.

The project site is relatively flat lot with an average slope of less than 10%. Appropriate consideration has been given to the proposed grading and pavement by the Single Family Design Board. The grading quantities are the result of foundation preparation and attempting to lower the house to have less of an effect on the neighbor's view from High Ridge Lane.

CONCLUSIONS AND FINDINGS:

In conclusion the proposed project has undergone a thorough review by staff, the Single Family Design Board, the Staff Hearing Officer and the Planning Commission. The proposed project conforms to the City's Zoning and Building Ordinances and the policies of the General Plan. The SFDB conducted a detailed review which resulted in a project that is compatible with the neighborhood. The applicant has continually responded to the neighbor's concerns and appropriate consideration has been given to the appellant's privacy and view issues as part of the Design Review and the Performance Standard Permit process.

The Neighborhood Preservation Findings (SBMC Section 22.69.050) required for Project Design Approval are as follows:

1. Consistency and Appearance. The proposed development is consistent with the scenic character of the City and will enhance the appearance of the neighborhood.
2. Compatibility. The proposed development is compatible with the neighborhood, and its size, bulk, and scale are appropriate to the site and neighborhood.
3. Quality Architecture and Materials. The proposed buildings and structures are designed with quality architectural details. The proposed materials and colors maintain the natural appearance of the ridgeline or hillside.
4. Trees. The proposed project does not include the removal of or significantly impact any designated Specimen Tree, Historic Tree or Landmark Tree. The proposed project, to the maximum extent feasible, preserves and protects healthy, non-invasive trees with a trunk diameter of four inches (4") or more measured four feet (4') above natural grade. If the project includes the removal of any healthy, non-invasive tree with a diameter of four inches (4") or more measured four feet (4') above natural grade, the project includes a plan to mitigate the impact of such removal by planting replacement trees in accordance with applicable tree replacement ratios.
5. Health, Safety, and Welfare. The public health, safety, and welfare are appropriately protected and preserved.
6. Good Neighbor Guidelines. The project generally complies with the Good Neighbor Guidelines regarding privacy, landscaping, noise and lighting.
7. Public Views. The development, including proposed structures and grading, preserves significant public scenic views of and from the hillside.
8. Natural Topography Protection. The development, including the proposed structures and grading, is appropriate to the site, is designed to avoid visible scarring, and does not significantly modify the natural topography of the site or the natural appearance of any ridgeline or hillside.
9. Building Scale. The development maintains a scale and form that blends with the hillside by minimizing the visual appearance of structures and the overall height of structures.
10. The proposed grading will not significantly increase siltation in, or decrease the water quality of, streams, drainages or water storage facilities to which the property drains; and
11. The proposed grading will not cause a substantial loss of southern oak woodland habitat.

The findings required for approval of the Performance Standard Permit for the construction of an additional dwelling unit (SBMC Section 28.93.030.E) include finding adequate lot area for two residential units with associated existing accessory space, and adequate ingress and egress for each residence. Based on the discussions in the SHO Report, the PC Staff Report and this Council Agenda Report, it can be found that

there is adequate ingress and egress to the project site for day-to-day and emergency use. The project is located on a 31,584 square foot lot of which is more than double of the minimum lot size required in the E-1 zone district. The new structures will comply with all ordinance standards of the E-1 Zone including height and setbacks, parking and open yard.

NOTE: The documents, listed below, have been separately delivered to the City Council with a cover memo, dated July 12, 2011, for their review as part of the Council reading file and are available for public review in the City Clerk's Office and the Planning Division offices at 630 Garden Street:

- Project Plans date stamped July 1, 2011.
- Story Pole Exhibit dated July 7, 2011.

ATTACHMENT(S):

1. Marc Chytilo SFDB Appeal Letter, dated May 5, 2011.
2. Marc Chytilo PC Appeal Letter dated March 17, 2011.
3. Letter from Applicant dated July 5, 2011.
4. Single Family Design Board Minutes for the meetings of July 19, 2010, August 30, 2010, November 22, 2010, March 28, 2011, and April 25, 2011.
5. March 10, 2011, Planning Commission Staff Report.
6. March 10, 2011, Planning Commission Minutes.
7. Planning Commission Resolution 005-11.
8. Arborist Report prepared by Westree dated August 12, 2010.

PREPARED BY: Kelly Brodison, Assistant Planner

SUBMITTED BY: Paul Casey, Assistant City Administrator/Community Development Director

APPROVED BY: City Administrator's Office

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

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May 5, 2011

CITY OF SANTA BARBARA
CITY CLERK'S OFFICE

Santa Barbara City Council
c/o Santa Barbara City Clerk
735 Anacapa Street
Santa Barbara, California 93101

VIA HAND DELIVERY

RE: Appeal of April 25th, 2011 Single Family Design Board (Project Design Approval)
MST2010-00186; 1233 Mission Ridge Road

Mayor Schneider and Members of the City Council,

This office represents Judy and David Denenholz who hereby appeal all aspects of the Single Family Design Board's ("SFDB") Project Design Approval on April 28, 2011 of the proposed residential project located on the private Green Ridge Road in Santa Barbara's upper Riviera neighborhood but with a street address of 1233 Mission Ridge Road ("Project"). Our clients have also appealed the Planning Commission's March 10, 2011 decision to uphold the issuance of a Performance Standard Permit authorizing a second dwelling unit. (See Appeal Letter, March 17, 2011). City staff has agreed that both appeals will be heard by the City Council on the same date.

Our clients own a home near the Project and are concerned about several aspects of the Project including the size, bulk and scale of the project; the Project's blockage of views from the homes, streets and open space areas of the ocean and city; the adequacy of existing roadways, in particular Green Ridge Road, to provide safe and adequate ingress and egress during wildfire-induced emergency conditions; and safety issues surrounding emergency vehicle access based on past experience. A number of other neighbors have expressed strong reservations about the Project and appeared in opposition before the SFDB, the Staff Hearing Officer and the Planning Commission.

Pursuant to the Neighborhood Protection Ordinance ("NPO") prior to approval of any project, the Single Family Design Board ("SFDB") shall make seven distinct findings regarding: 1) Consistency and Appearance, 2) Compatibility, 3) Quality Architecture and Materials, 4) Trees, 5) Health Safety and Welfare, 6) Good Neighbor Guidelines and 7) Public Views. SBMC § 22.69.050A.

For projects located in the Hillside Design District, the SFDB must also make findings regarding: 1) Natural Topography Protection, and 2) Building Scale. SBMC § 22.69.050B.

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Additionally, the SFDB must make findings related to grading and vegetation removal. SBMC § 22.69.050C&D.

The preliminary issues in this appeal are contained in three letters we previously submitted to the City: LOMC to SFDB, March 25, 2011 (particularly Exhibit 3: SFDB Findings, Preliminary Analysis)(attached hereto); 2) LOMC to Planning Commission, February 7, 2011(attached to Appeal of Planning Commission action); and 3) LOMC to Planning Commission, March 3, 2011 (attached to Appeal of Planning Commission action). The issues are summarized as follows:

Issue #1: Consistency and Appearance

The Project (which has been characterized by the applicant as a 'compound') is large and includes an entry portal, motorcourt and long exterior wall of garages which is inconsistent with the scenic character of the City and does not enhance the appearance of the neighborhood.

Issue # 2: Compatibility

The SFDB did not make sufficient findings or rely on reliable information to determine whether the Project was compatible with the immediate neighborhood or the Riviera.

The Project is inconsistent with the Single Family Residence Design Guidelines ("guidelines") in the following ways:

1. Height - The Project is 28 feet high. The guidelines recommend homes no higher than 25 feet in the Hillside Design District.
2. FAR – The Project is in best case scenario calculated at 99% of FAR. The guidelines recommend not exceeding 85% FAR.
3. Excessive covered porches – The Project proposes 23% of total net structure square footage of covered porches. The guidelines suggest no more than 10%.
4. Garage Placement - The bulky front of the Project including the portal and two garages (four bays) and a workshop that is plainly designed to be converted to a garage that cumulatively dominate the view in contradiction to the guidelines.
5. Second story - The second story looks over the lower neighbor's home to the south posing significant privacy issues.
6. Wall and Roof Size – The building has considerable massing from the walls facing north and west and considerable amount of exposed and visible roof.

Issue # 3: Trees

The General Plan states that "(m)ature trees should be integrated into project design rather than removed...." (See GP Conservation Element § 4.1)

The SFDB must find that "the proposed project, to the maximum extent feasible, preserves and protects healthy, non-invasive trees with a trunk diameter of four inches (4") or more measured four feet (4') above natural grade." SBMC § 22.69.050A.4.

The Project site contains several oak trees and palm trees with trunk diameters greater than four inches. The applicant has proposed to move the largest palm tree and has trimmed the oak trees to display a reduced drip zone necessary to accommodate the second house. Development overlies the root zone of oak trees, and foundations will be installed on top of the oak tree root zone. There is ample room for a reasonable development on the site without endangering the oak trees. There is no finding that the design and siting preserve trees "to the maximum extent feasible" nor facts in evidence in light of pre-approval oak tree trimming and development in oak tree root zones.

Issue #4: Health, Safety and Welfare

The SFDB failed to find that "the public health, safety, and welfare are appropriately protected and preserved." Green Ridge Road is a dead-end road that narrows to between 14 and 16 feet wide. It serves six residences (and potentially seven if this Project is approved) in the High Fire Hazard Area and the California Fire Code and City ordinance mandate a 20-foot width. The narrow, non-conforming road poses significant safety risks for residents and guests in emergency evacuation conditions and compromises emergency vehicle access as described in detail in the letter from Marc Chytilo to the Planning Commission, dated February 7, 2011 (pp. 3-6).

Issue #5: Good Neighbor Guidelines

The SFDB did not make a finding that the Project "generally complies with the Good Neighbor Guidelines." The applicant has not made a good faith effort to address the invasion of privacy, the blockage of neighbors' views or the effect of the Project's large mass, bulk and scale upon surrounding properties, and thus this finding cannot be made.

Issue #6: Public Views

The Project site is visible from most of the homes on High Ridge and Green Ridge Roads and the roads themselves. From several locations it blocks views of the City, the Channel Islands, Chase Palm Park and sunset views. A finding cannot be made that this Project "preserves significant public scenic views of and from the hillside.

Issue #7: Natural Topography Protection

The Project proposes excessive grading to accommodate an oversized motorcourt and associated garages and the "workshop." The height of the structure and grading is not appropriate to this site located in the Hillside Design District and should be reduced.

Issue #8: Building Scale

The Project overwhelms this Riviera lot and does not "maintain a scale and form that blends with the hillside by minimizing the visual appearance of structures and the overall height of the structures" as required by the NPO.

Mayor Schneider and Members of the City Council
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Issue #9: Grading

This large project includes a substantial amount of pavement including two driveways and a large motorcade worthy of a hotel. See Letter from Marc Chytilo to Planning Commission, dated March 4, 2011 (pp. 3-4) regarding grading and drainage impacts.

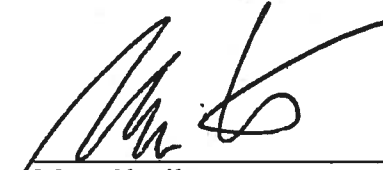
Conclusion

In conclusion, we request that you deny the Project based on the inability to make the findings required by SBMC § 22.69.050, or in the alternative require the applicants to alter the Project to conform with the City's ordinances and guidelines.

We reserve the right to supplement this appeal with additional information and argument prior to the hearing date.

Respectfully Submitted,

LAW OFFICE OF MARC CHYTILO



Marc Chytilo

Enclosures:

LOMC to SFDB, March 25, 2011, with Exhibits (Attached)

Appeal letter from M. Chytilo to Planning Commission, February 7, 2011 (Incorporated by reference - attached to March 17, 2011 Appeal to Council of Planning Commission Approval of Second house)

Supplemental appeal letter from M. Chytilo to Planning Commission, March 3, 2011 (Incorporated by reference - attached to March 17, 2011 Appeal to Council of Planning Commission Approval of Second house)

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

March 25, 2011

Single Family Design Board
Community Development Department
Planning Division
P.O. Box 1990
Santa Barbara, CA 93102-1990

RE: Project Design Hearing: March 28, 2011
Application # MST2010-00186
1233 Mission Ridge Road

Dear Single Family Design Board,

This letter is submitted on behalf of Judy and David Denenholz in regard to the proposed project located at 1233 Mission Ridge Road ("Project"). The Denenholzs are homeowners near the Project with concerns over several aspects of the Project including the size, bulk and scale of the project; the Project's blockage of views from homes, streets, and open space areas of the Ocean and City; and safety issues surrounding emergency vehicle access. They understand and appreciate the desire to redevelop the subject property, and are eager to work with the applicant to try to resolve their concerns, however have been unable to, in large part due to the delays in installing story poles, and now from the incomplete nature of the story poles.

1. The Story Poles are Incomplete - SFDB Should Direct Additional Poles for Garage, Entry Portal and Second Unit

Unfortunately, up to this time, we have been thwarted in our efforts to have story poles installed to allow us to consider this project. We submitted a letter in December 2010 requesting that the story poles be installed prior to the Staff Hearing Officer's (SHO) January 26, 2011 hearing so the neighbors could visualize the Project. The City Planning staff declined, but twice advised us that if we appealed the SHO decision to the Planning Commission, staff would require installation of story poles prior to the Planning Commission appeal hearing. (communications from J. Limon, 12/2/2010 and K. Brodison, 1/18/2011). The SHO approved the second house, we appealed, but then staff reneged on their prior commitment and determined that story poles would only be installed prior to the next SFDB meeting.

Similarly, we explained in writing to staff why "Full" levels of story poles were appropriate, based on this Project meeting 5 of the 6 criteria established in Part 3 of the SFDB Guidelines. (Letter, Marc Chytilo to J. Limon, 12/28/2010, attached as Exhibit 1). Staff advised us that the story poles would focus only on the second story components, ignoring the four other criteria.

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Significantly, SFDB Guidelines provide that when a proposal involves second story elements "This type of project will likely be required to provide full level story pole." (SFDB Guidelines § 6.3.B (emphasis added). This direction was also ignored.

When staff provided a copy of the Story Pole Plan to the neighbors, we again requested that story poles be installed that represented the garages, entry portal, and second unit. I spoke at length with Mr. Kato over the need to supplement the Story Pole Plan. Mr. Kato stated he understood our needs, agreed that it would be useful to install poles for the garage and entry portal and disagreed as to the need for story poles for the second unit, based on his belief that the neighbors to the north, the Wrights, supported the Project. I explained that the Wrights did not support the project and had concerns. After my meeting with Mr. Kato I alerted the Wrights to the City's belief, and they requested I give Mr. Kato the letter that is attached as Exhibit 2. Unfortunately, there was no amendment to the Story Pole Plan and the garages, portal and second unit are not represented.

Unfortunately, the story poles are limited to only the main residence, focusing on the second story features of the Project. While these poles show how the Project will block views from surrounding properties and from High Ridge Road, they don't show how the mass of the garages, front entry portico and second house will affect my clients' home and the neighborhood generally.

We request that the SFDB direct the applicant to install story poles for the garage wing, the entry portal, and the second house, and defer SFBD action until these are installed and considered by the affected community.

2. A Preliminary Landscape Plan is Required

The SFDB Submittal Checklist on the agenda states that preliminary landscape plans are required for Project Design Approval for single family homes where grading occurs. The Project involves 170 CY of grading, and thus a Preliminary Landscape plan is required. We have made inquiries, and no landscape plans whatsoever are available. Landscaping is germane to the neighborhood's concerns for privacy and visual impacts. No Project Design Approval may be granted at this time, and we respectfully request an opportunity to consider and comment on the proposed landscape plan prior to your Board's review and consideration.

3. Required Findings May Not Be Made

Pursuant to the Neighborhood Protection Ordinance prior to approval of any project, the Single Family Design Board ("SFDB") shall make seven distinct findings regarding: 1) Consistency and Appearance, 2) Compatibility, 3) Quality Architecture and Materials, 4) Trees, 5) Health Safety and Welfare, 6) Good Neighbor Guidelines and 7) Public Views. SBMC § 22.69.050A.

Single Family Design Board
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For projects located in the Hillside Design District, the SFDB must also make findings regarding: 1) Natural Topography Protection, and 2) Building Scale. SBMC § 22.69.050B. The Project is located within the Hillside Design District.

Additionally, the SFDB must make findings related to grading and vegetation removal. SBMC § 22.69.050C&D.

In the interest of a brief letter, I am attaching our preliminary views on the findings as an attachment - Exhibit 3 to this letter. We believe the findings issues cannot be addressed until the remaining story poles are installed and the landscape plan submitted.


In closing, it is our hope that the City's Good Neighbor Guidelines will be followed and the neighbors affected by the Project can meet and work with the applicant to achieve a project everyone can support. This meeting and attempted resolution has been delayed by the delays in installing story poles. We ask that the SFDB assist the affected community in achieving a project design that avoids unnecessary impacts to the community, minimizes impacts that cannot be avoided, and addresses the concerns of the immediate neighbors.

These goals can be best achieved by the SFDB directing the installation of a "Full" level of story poles, including representation of the garage, entry portal structure, and the second residence.

Thank you for your consideration of our views and concerns.

Sincerely,

LAW OFFICE OF MARC CHYTILO



Marc Chytilo

Exhibits

Exhibit 1: Letter, Marc Chytilo to Jaime Limon, re: Story Poles, 12/28/2010

Exhibit 2: Letter, Charles and Joyce Wright to Danny Kato, re: Story Poles, 3/17/2011

Exhibit 3: Preliminary Findings Analysis, Marc Chytilo, 3/25/2011

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

December 28, 2010

Community Development Department
Planning Division
Mr. Jaime Limón
Design Review Supervisor
P.O. Box 1990
Santa Barbara, CA 93102-1990

RE: Application # MST2010-00186
1233 Mission Ridge Road

Dear Mr. Limón:

I am writing on behalf of my clients Judy and David Denenholz to request that you require the applicants of the project located at 1233 Mission Ridge Road ("the project") to install story poles at the "Full Level" as described in the SFDB Guidelines, Part 3: Meeting Procedures ("Guidelines") §6.4(A).

The project meets five out of six of the story pole criteria delineated in the Guidelines §6.3 and should be required to install the full level of story poles.

A. High FAR Applications. The Guidelines §6.3(A) require a full level of story pole installation if the FAR of a proposed development exceeds 100%. This lot was fictionally split into two for the purpose of calculating the FAR for two residential complexes. The applicant has proposed that the FAR of Unit 1 be calculated in such a way that the FAR for the first fictional lot is 99.9% and the FAR for the development proposed on the second lot is 34%. If the FAR had been calculated for the total amount of development associated with the principal residential unit on the one lot it would exceed 100%. Additionally, even if the lot were properly split into two, the apportionment of the square footage of the dwellings to Unit 1 and Unit 2 is arbitrary and misleading. The 459 square foot garage and the 192 square foot storage unit attached to Unit 1 have been attributed to Unit 2 for FAR calculation purposes. This appears to have been apportioned to ensure that the Unit 1 FAR is less than 100%. Given that even in the best case scenario Unit 1 is calculated at essentially 100% FAR and that there are issues of arbitrary apportionment based on a fictional lot split, this project should be considered to have a "high FAR" and be required to install the full level of story poles.

MARC CHYTILO
P.O. Box 92233 • Santa Barbara, California 93190
Phone: (805) 682-0585 • Fax: (805) 682-2379
Email: airlaw5@cox.net

EXHIBIT \

- B. Upper Story Applications.** §6.3(B) states that projects involving a second floor covering 50% or more of the first floor "will likely be required to provide full level story poles ...". The second story in this project covers 55% gross area of the first floor. Therefore, the full level of story poles should be installed.

Other factors that may trigger this requirement include high vertical design elements including steep roof pitch, high volumes, 10 feet or greater plate heights and towers; and neighborhood context where the project is significantly taller than other structures in the immediate neighborhood (20 closest homes). The project, at 5,899 square feet total, should be considered "high volume." And, although the applicant's plans do not include dimensions, it appears that the plate heights of the living room are 10 feet or greater. These factors again should trigger the implementation of the full level of story poles.

- C. High Visibility Locations.** §6.3(C) states that projects based on location, may be required to provide full level story poles if "1) For Hillside Design District projects, projects with a potential visual impact to the streetscape, 2) Significant topography of the building site and significant property slope, 3) In open hillside areas, near ridgelines and adjacent to public views." This project is located in the Hillside Design District and currently has two one-story residences. The proposed project is over twice the size of the existing residences and will be two stories high. The visibility from public and private streets is in question, as is the project's overall impact to the streetscape and public views, in addition to private views raised before the SFDB. This increase in size, mass and scale creates a "potential visual impact to the streetscape" and should require the full level of story poles. Additionally, a full level of story poles will be necessary to determine whether a public view is affected by this project.
- D. Hillside Area Locations.** Projects "located within the Hillside Design District may be required to provide full level (. . .) story pole requirements ...". §6.3(D). The project meets all three of the triggers for this requirement: "1) Significant topography of the building site and percentage or degree of property slope; 2) Potential looming nature and height of the proposal; and 3) The proposed structure will likely involve blockage or substantial reduction of an important public scenic view or will likely violate good neighbor policies and guidelines related to privacy or private view concerns." §6.3(D). At both Concept Review hearings neighbors complained about violating good neighbor policies, and were concerned with their privacy as well as private views. Therefore under this section, the full level of story poles should be required.
- E. Other Bases.** Projects "where concerns are raised from public testimony or from written comments that the Board considers legitimate concerns may be required to meet story pole or visual aid requirements as deemed appropriate by the Board...". §6.3(F). At both the 8/10/10 and 11/22/10 Concept Review hearings several neighbors commented on privacy, view and mass issues and requested story poles including showing the 2nd story

Mr. Jaime Limón
December 28, 2010
Page 3

windows. We request the same courtesy, requiring the applicant to install the full level of story poles.

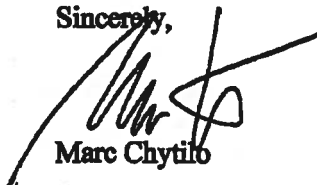
The project meets five out of the six criteria for implementing the full level of story poles delineated in the Guidelines §6.3. We ask that you require the applicants to install the full level under these Guidelines.

Please contact me if you have any questions and to notify me of your decision of the level of story poles to be installed and the expected date that the story poles will be erected. You have stated the City will provide timely notice to the interested neighbors before the story poles are installed so we look forward to having as much advance notice as possible.

Given the level of community concerns, we strongly urge that the City require installation of the story poles BEFORE the SHO hearing. Further, it is imperative that the story poles remain in place for enough time for all potentially affected neighbors to view and consider them with plans in hand. Since some owners do not live full time in the area and some have medical and health challenges that limit their ability to view the poles at any given time, we request the poles remain in place for at least one week, preferably two. If there is inclement weather during that period, the time they are up should be extended.

Thank you for your consideration of our concerns.

Sincerely,



Marc Chytilo

CC: Client

MARC CHYTILO
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Email: mrhw5@cox.net

March 17, 2011

Mr. Danny Kato
Senior Planner/Design Supervisor
City Of Santa Barbara
Planning Department

RE: Project at 1233 Mission Ridge Road

Dear Mr. Kato:

My wife and I have lived at 1231 Mission Ridge Road for over 25 years. As we have written in the past, we are concerned about the project being planned for 1233 Mission Ridge Road and at this point, would like to see full story poles erected for the entire project, including the second house which is close to our home, so we can determine the full impact from our property.

Thank you.

Charles Wright March 17 2011

Charles Wright

Joyce Wright

J. Wright - March 17th 2011

EXHIBIT 2

Exhibit 3
1233 Mission Ridge Road - SFDB Findings
Preliminary Analysis

A. Consistency and Appearance

The SFDB must find that "the proposed development is consistent with the scenic character of the City and will enhance the appearance of the neighborhood."

The house complex is large and visible from Arbolado and High Ridge Roads.

The entry portal, motorcourt and wall of garages creates a highly visible "hotel" feel from Greenridge that might be considered consistent in appearance to the El Encanto, but not this neighborhood.

B. Compatibility

The SFDB must find that "the proposed development is compatible with the neighborhood, and its size, bulk, and scale are appropriate to the site and neighborhood."

The Single Family Residence Design Guidelines ("SFRD Guidelines") provide guidance on compatibility specifically addressing 1) neighborhood, 2) volume, bulk massing and scale, and 3) floor to lot area ratios (FAR).

(a) Neighborhood

Compatibility Guideline #6 states that an applicant should "design a project to be compatible with the immediate neighborhood, and carefully consider the neighborhood study area for a project." SFRD Guidelines, p. 15-C. The SFDB may consider three types of neighborhood study areas.

First, they may consider a neighborhood designated in the General Plan. This Project is located in "the Riviera" neighborhood. SFRD Guidelines, p. 15-C, 16-C (Map).

The second type of neighborhood that may be considered is the "Immediate Area". Generally this is an area smaller than the General Plan neighborhood that has a combination of similar zoning, properties built as part of the same original subdivision, common access routes, walkable radius (usually quarter mile), similar architectural styles, similar tree and landscaping patterns, main streets or bridges as corridors. "Also, it should be noted that highly visible properties, such as those in hillside areas, can have an impact beyond their immediate neighborhood." SFRD Guidelines, p. 15-C.

In the absence of a landscape plan, no finding can be made.

Third, the SFDB may consider the "Neighborhood Study Area" which includes the twenty closest lots to a proposed project. "Additionally lots may be considered to make a compatibility determination depending on the predominant streetscape, patterns of development, or parcel sizes." SFRD Guidelines, p. 15-C.

There are several sets of documents available in the record that appear to summarize the surrounding parcels. The documents we have seen contain significant errors and do not identify their source, and thus should not be relied on.

(b) Volume, Bulk, Massing and Scale

Compatibility Guideline #7 states that "design structures [should] be compatible with neighboring houses in terms of volume, size, massing, scale and bulk." SFRD Guidelines, p. 17-C. According to SFRD Guidelines, p. 20-C, the SFDB should consider the following bulleted, italicized issues related to volume, mass, bulk, size and scale:

- *Compatibility: How compatible is the structure's volume, bulk and scale with the volume, bulk and scale of the existing neighborhood homes?*

The volume of this project is considerable, totaling 15,651 square feet of development. The gross square footage of both structures is 7,170 square feet; covered porches, decks and trellises total 1,352 square feet; uncovered patios total 2,128 square feet; the pool and spa are approximately 800 square feet; and additional paved surfaces add another 4,201 square feet.

The SFRD Guidelines advise applicants to avoid excessive building height, which is overtly defined as 25' or more. "Homes taller than 25' tall are usually incompatible in most single family neighborhoods." SFRDG, p. 26-C, § 9.2; see also id p. 53-H, §29.2 (Hillside District projects usually have a height of 25' or less, especially where the slope is less than 25% and even though the zoning ordinance allows 30'). This project, at 29 feet 6 inches, exceeds these guidelines and in many cases exceeds the height of the surrounding homes. Further, for those houses that are 30', they are located in a recessed portion of their lot. The subject house is 29.5 feet tall from a point that is graded up from the existing grade and is prominent at its tallest point.

- *FAR: Is structure's size appropriate for its lot size?*

See discussion below regarding FAR.

- *Second Story Decks: Do wall elements, guardrails, furniture, or outdoor fireplaces contribute to the bulk or scale of the project?*

The elements of the second story deck have not been provided by the applicant and should be provided prior to SFDB approval.

- *Covered Porches, Loggias, and Covered Decks:*

Do the covered porches, loggias, and/or covered decks enhance the building's design, appearance, and function? Do they contribute to excessive mass, scale and bulk? Careful consideration should be given to projects that propose greater than 250 square feet of these areas, or when they are greater than 10% of the total net square footage of the structure. Because they include roof structures these areas might easily be enclosed in the future, possibly without design review. Future enclosure of existing covered areas may contribute to unacceptable size, bulk, and scale, eliminate a desirable architectural feature, or exceed FAR limits.

The Project proposes 1,352 gross square feet of covered porches, decks and trellises, which constitute 23% of the total net square footage of the structures (using 5,899 net square feet for both structures). If we consider Residence 1 only, the percentage of covered porches, etc. to the total net square footage is 27% (1190 s.f. divided by 4,395 s.f.). These proposed porches, decks, loggias and trellises clearly exceed the maximum percentages and square footage recommended by the guidelines.

Garage Door Design and Placement: Does the garage design minimize an appearance of bulk? Is the scale of the garage appropriate in comparison to the portion of the house visible from the street?

The SFRD Guidelines, p. 12-SP 5.2 also advise that "garages should not be the predominant feature of the front elevation ... and that design solutions which locate the garage behind the main residence are preferred, where feasible."

The Project's four garages are located in front of the main residence, near the street and visible from Green Ridge Lane. The driveways, both on the west side of the property and the front "motorcade" add to the excessive pavement (4,201 square feet) and predominant view of garages and driveways from the front elevation.

- *Second-Story Setbacks: How does the second-story volume affect the streetscape or neighboring backyards? How bulky does a structure appear from the front or the back of a house because of how the massing of a building is composed?*

The second story overlooks the neighboring residence to the south and poses significant privacy issues. It also has the potential to look northward into the adjoining properties there, compromising privacy on that side.

The portal, located at front of the property, very near Green Ridge Lane, adds to a bulky front appearance. The size, dimensions and story poles representing the portal have not been provided by the applicant and should be prior to approval.

- *Canyon Effect: How close is the volume of a proposed second-story structure to the volume of any adjacent property's existing second-story volume?*

The distance from the project's second story to the adjacent second story property should be identified.

- *Wall Size: How does a large expanse of wall contribute to a structure's appearance of bulk? How can a structure's volume be articulated consistent with an architectural style? Do building wall heights allow proportional human scale window and door details?*

The building has considerable massing from walls facing north and west, and the project appears quite bulky from the primary view corridor and from High Ridge Road.

Roof Size: How does a large expanse of roof contribute to a structure's appearance of bulk? How can a structure's massing be changed to avoid large expanses of roof?

There is a considerable amount of exposed and visible roof.

Plate Height: Do building plate heights allow for appropriately scaled wall, window and door details?

The ten foot living room plate on an elevated portion of the house unnecessarily increases the bulk and mass.

(c) Floor to Lot Area Ratio (FAR)

The project's size exceeds the recommendations for Floor to Lot Area Ratios (FAR) delineated in the SFRD Guidelines. Compatibility Guideline No. 8 states that applicants should strive for a project which falls in the "less than 85% of maximum FAR" range for the project size. SFRD Guidelines, p. 21-C. Although maximum FARs are applied as guidelines rather than requirements on lots that are 15,000 square feet or larger, the SFR Guidelines have calculated recommended FARs for projects that exceed 15,000 square feet. This 31,584 square foot lot is just under $\frac{3}{4}$ acre. According to the SFRD guidelines the recommended dwelling area (85% of maximum FAR) for a $\frac{3}{4}$ acre lot is 4,127 square feet. (SFR Guidelines, p. 23-C). The Project's total net square footage for all site structures is 5,899 square feet, exceeding the maximum recommended area by 1,772 square feet.

Apparently in order to circumvent the FAR guideline, the FAR for the Project has been calculated assuming that the single lot has been split into two lots: one measuring 15,000 square feet and one measuring 16,584 square feet. With this arbitrary lot division, the FAR of Unit 1 is calculated to be 99.9% and the FAR of Unit 2 at 34%. However, even though they are physically attached to Unit 1, the 459 square foot garage and 125 square foot storage unit have both been attributed to Unit 2. This appears to have been apportioned to ensure that the Unit 1 FAR is less than 100%. Regardless of whether the lot is split or not, or whether a garage and storage structure are located adjacent to Unit 1 and attributed to Unit 2, the maximum FAR guidelines of 85% have been exceeded.

C. Trees

"The proposed project does not include the removal of or significantly impact any designated Specimen Tree, Historic Tree or Landmark Tree. The proposed project, to the maximum extent feasible, preserves and protects healthy, non-invasive trees with a trunk diameter of four inches (4") or more measured four feet (4') above natural grade. If the project includes the removal of any healthy, non-invasive tree with a diameter of four inches (4") or more measured four feet (4') above natural grade, the project includes a plan to mitigate the impact of such removal by planting replacement trees in accordance with applicable tree replacement ratios."

The applicant is required to submit landscape plans prior to Preliminary Review pursuant to SFDB Guidelines, Part II, Section 1.1.

D. Health, Safety and Welfare

The SFDB must find that "the public health, safety, and welfare are appropriately protected and preserved." See **letter from Marc Chytilo to the Planning Commission, dated February 7, 2011, pages 3-6** for a discussion of the hazards surrounding Green Ridge Lane relating to emergency vehicle access and fire hazards.

E. Good Neighbor Guidelines

"The project generally complies with the Good Neighbor Guidelines regarding privacy, landscaping, noise and lighting."

We regret that there has been no consideration of the concerns of the immediate neighbors. The good Neighbor Guidelines have not been faithfully observed.

F. Public Views

"The development, including proposed structures and grading, preserves significant public scenic views of and from the hillside."

The Riviera is renowned for its views of the City, the waterfront and the Ocean. Chase Palm Park offers a visual punctuation to the interface of sea and land, while sunsets and sunrises inspire on a daily basis. From High Ridge and Green Ridge Roads, the site is visible, as it is from most of the residences on these streets.

G. Natural Topography Protection

"The development, including the proposed structures and grading, is appropriate to the site, is designed to avoid visible scarring, and does not significantly modify the natural topography of the site or the natural appearance of any ridgeline or hillside."

The grading adds height to the structure and should be reduced.

H. Building Scale

"The development maintains a scale and form that blends with the hillside by minimizing the visual appearance of structures and the overall height of structures."

The amount of building overwhelms the lot.

I. Grading

"The proposed grading will not significantly increase siltation in or decrease the water quality of streams, drainages or water storage facilities to which the property drains; and ... will not cause a substantial loss of southern oak woodland habitat."

See Letter from Marc Chytilo to Planning Commission, dated March 4, 2011, pages 3-4 regarding grading and drainage issues.

J. Vegetation Removal

"The proposed vegetation removal will not significantly increase siltation in or decrease the water quality of streams, drainages or water storage facilities to which the property drains; and ... will not cause a substantial loss of southern oak woodland habitat; and ... will comply with all applicable provisions of Chapter 22.10, "Vegetation Removal," of this Code."

The applicant is required to submit landscape plans prior to Preliminary Review pursuant to SFDB Guidelines, Part II, Section 1.1.

Applicable Authority

SBMC

22.69.050 Neighborhood Preservation, Grading and Vegetation Removal Ordinance Findings.

If a project is referred to the Single Family Design Board for review pursuant to Section 22.69.020 and the Single Family Design Board Guidelines, the Single Family Design Board shall make the findings specified below prior to approving the project.

A. NEIGHBORHOOD PRESERVATION FINDINGS. Prior to approval of any project, the Single Family Design Board shall make each of the following findings:

- 1. Consistency and Appearance.** The proposed development is consistent with the scenic character of the City and will enhance the appearance of the neighborhood.
- 2. Compatibility.** The proposed development is compatible with the neighborhood, and its size, bulk, and scale are appropriate to the site and neighborhood.
- 3. Quality Architecture and Materials.** The proposed buildings and structures are designed with quality architectural details. The proposed materials and colors maintain the natural appearance of the ridgeline or hillside.

4. **Trees.** The proposed project does not include the removal of or significantly impact any designated Specimen Tree, Historic Tree or Landmark Tree. The proposed project, to the maximum extent feasible, preserves and protects healthy, non-invasive trees with a trunk diameter of four inches (4") or more measured four feet (4') above natural grade. If the project includes the removal of any healthy, non-invasive tree with a diameter of four inches (4") or more measured four feet (4') above natural grade, the project includes a plan to mitigate the impact of such removal by planting replacement trees in accordance with applicable tree replacement ratios.
5. **Health, Safety, and Welfare.** The public health, safety, and welfare are appropriately protected and preserved.
6. **Good Neighbor Guidelines.** The project generally complies with the Good Neighbor Guidelines regarding privacy, landscaping, noise and lighting.
7. **Public Views.** The development, including proposed structures and grading, preserves significant public scenic views of and from the hillside.

B. HILLSIDE DESIGN DISTRICT AND SLOPED LOT FINDINGS. In addition to the findings specified in Subsection A above, prior to approval of any project on a lot within the Hillside Design District described in Section 22.68.060 or on a lot or a building site that has an average slope of 15% or more (as calculated pursuant to Section 28.15.080 of this Code), the Single Family Design Board shall make each of the following findings:

1. **Natural Topography Protection.** The development, including the proposed structures and grading, is appropriate to the site, is designed to avoid visible scarring, and does not significantly modify the natural topography of the site or the natural appearance of any ridgeline or hillside.
2. **Building Scale.** The development maintains a scale and form that blends with the hillside by minimizing the visual appearance of structures and the overall height of structures. 425-4 rev. 6/30/10

C. GRADING FINDINGS. In addition to any other applicable findings specified in this Section 22.69.050, prior to approval of any project that requires design review under either Paragraph 22.69.030.C.11 or Subsection 22.69.030.E of this Chapter, the Single Family Design Board shall make each of the following findings:

1. The proposed grading will not significantly increase siltation in or decrease the water quality of streams, drainages or water storage facilities to which the property drains; and
2. The proposed grading will not cause a substantial loss of southern oak woodland habitat.

D. VEGETATION REMOVAL FINDINGS. In addition to any other applicable findings specified in this Section 22.69.050, prior to approving a vegetation removal permit that requires design review under Subsection 22.69.030.F of this Chapter, the Single Family Design Board shall make each of the following findings:

1. The proposed vegetation removal will not significantly increase siltation in or decrease the water quality

of streams, drainages or water storage facilities to which the property drains; and
2. The proposed vegetation removal will not cause a substantial loss of southern oak woodland habitat; and
3. The proposed vegetation removal will comply with all applicable provisions of Chapter 22.10, "Vegetation Removal," of this Code. (Ord. 5444, 2008; Ord. 5416, 2007.)

22.69.055 Green Building Standard for Large Residences.

If a project proposes more than 500 square feet of new net floor area (new construction, replacement construction, or additions), and the net floor area of all existing and new buildings on the lot resulting from the application will exceed four thousand (4,000) square feet of net floor area as calculated pursuant to Section 28.04.315, all new square footage (new construction, replacement construction, or additions) proposed as part of the project shall meet or exceed a three-star designation under the Santa Barbara Contractors' Association Built Green program or equivalent standards under another green construction program recognized by the City. (Ord. 5518, 2010.)

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

RECEIVED

2011 MAR 17 PM 2:10

March 17, 2011
CITY OF SANTA BARBARA
CITY CLERK'S OFFICE

VIA HAND DELIVERY
Santa Barbara City Council
Santa Barbara City Clerk's Office, City Hall
735 Anacapa Street
Santa Barbara, California 93101

RE: Appeal of Planning Commission Decision on March 10, 2011
Application # MST2010-00186
1233 Mission Ridge Road

Dear City Clerk,

This office represents Judy and David Denenholz who hereby appeal the Planning Commission's March 10, 2011 decision upholding the issuance of a Performance Standard Permit and authorizing a second dwelling unit as part of a proposed residential project located on the private Green Ridge Lane in Santa Barbara's upper Riviera neighborhood but with a street address of 1233 Mission Ridge Road ("Project"). We challenge all aspects of this approval, including the sufficiency of the evidence, the adequacy of the findings, CEQA compliance, and Brown Act compliance.

We are filing this appeal to preserve our right of review but do not expect or desire that this matter will be calendared until the Single Family Design Board process is complete and we have adequate time to submit supplemental appeal documents and prepare for the hearing itself. The project is scheduled to go before the SFDB on March 28, 2011. Please see Danny Kato's email attached assuring that all appeals to the City Council, including the Additional Dwelling Unit PSP and SFDB Project Design approval will be heard in a single City Council hearing. This appeal is a "placeholder" filed to preserve review rights at minimum cost while other proceedings occur and disputed issues may be resolved or narrowed. Mr. Kato has provided further assurances that we will have "ample time" to prepare for a council hearing, should that become necessary.

The grounds for this appeal are summarily stated by reference to prior letters filed in this matter, including: 1) Letter to the Staff Hearing Officer, January 21, 2011; 2) Planning Commission Appeal letter, February 7, 2011; 3) Planning Commission Supplemental Appeal letter, March 3, 2011; and 4) Letter to Steve Wiley, March 9, 2011. We reserve the right to add issues, evidence and argument to supplement this appeal.

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City Clerk
March 17, 2011
Page 2

Respectfully Submitted,

LAW OFFICE OF MARC CHYTILO



Marc Chytilo

Enclosures: Email from Danny Kato, March 10, 2011
Letter from M. Chytilo to SHO, January 21, 2011
Appeal letter from M. Chytilo to Planning Commission, February 7, 2011
Supplemental appeal letter from M. Chytilo to Planning Commission, March 3, 2011
Letter, Marc Chytilo to Steve Wiley, March 9, 2011

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

January 21, 2011

Ms. Susan Reardon, Staff Hearing Officer
Community Development Department
Planning Division
P.O. Box 1990
Santa Barbara, CA 93102-1990

By Hand Delivery

RE: Application # MST2010-00186
1233 Mission Ridge Road

Dear Ms. Reardon,

This letter is submitted on behalf of my clients Judy and David Denenholtz in regard to the proposed project located at 1233 Mission Ridge Road ("Project"). The Denenholtzs are homeowners near the Project and are concerned about several aspects of the Project including the size, bulk and scale of the project; the Project's blockage of views from homes, streets, and open space areas of the Ocean and City; safety issues surrounding emergency vehicle access based on past experience; and the City's compliance with CEQA. A number of other neighbors have expressed strong reservations about the project and appeared in opposition before the Single Family Design Board (SFDB).

1. The Good Neighbor Process Has Not Been Employed and Neighbors Need Complete Project Information to Ensure Their Interests Are Addressed

As explained to the applicant and the SFDB, the neighbors on Green Ridge Lane are troubled by the size of the structures and site intensification with the addition of a full second house on the lot. The SFDB agreed that the initial proposal was far too large for the neighborhood and site, and some reductions were made. The neighbors remain skeptical, particularly concerning specific view corridors, including views to Chase Palm Park and the waterfront, and asked the applicant, planning staff and SFDB to install story poles to illustrate how the project might affect the views of the ocean and City. See Exhibits 1 & 2. While the SFDB did order story poles, they allowed the applicant to choose whether to install them before the instant Staff Hearing Officer (SHO) hearing or the subsequent SFDB hearing. SFDB Minutes, 11/22/10. Thus the neighbors' concerns have been unaddressed, leading to the Denenholtz' and others' opposition.

We ask that you continue this hearing and direct the applicant to erect full story poles per the SFDB Guidelines, 4/27/2010. "The purpose of story poles is to assist the Single Family Design Board (SFDB), staff and interested neighbors (and if proposal is appealed, the Planning Commission and/or Council) in determining consistency regarding appropriate size, bulk and scale; height; neighborhood compatibility and/or minimizing impacts on important public

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views.” Only through the erection of story poles can the Project’s view blockage be gauged, and hopefully adjusted to reduce or avoid occlusion of important views by neighbors.

2. The Findings Cannot Be Made and the PSP Should Be Denied

In the event that the SHO does not move to continue this hearing and direct the applicant to install story poles, we respectfully request that the Performance Standard Permit (PSP) be denied and a determination made that the CEQA Categorical Exemption is not available for this Project. The basis for denial is the inability to make findings necessary for approval of the PSP. Specifically, there is evidence in the record gained from City files that the lot is actually only 28,964.64 square feet. Exhibit 3. As such, the finding of lot size adequacy cannot be made. Similarly, Green Ridge Lane narrows below the mandatory 16’ for about 20’, in some places to as little as 14’. The road is inadequate to serve the homes it serves now, and clearly cannot accept additional residences. Recently emergency medical personnel were unable to get vehicles close enough to access a resident of Green Ridge Lane experiencing a medical emergency and were forced to hike the person out, using a gurney, to get the patient to the hospital. Green Ridge Lane was too narrow and competing traffic prevented ambulance access.

A Performance Standard Permit is discretionary not obligatory. The code establishes that the SHO “may” grant a performance permit if the findings are made. SBMC § 28.93.020.A. The term “may” in the ordinance denotes an optional or discretionary action, as distinguished from the term “shall” that denotes a mandatory duty. See § 28.02.005. Section 28.92.030.E. again uses the term “may” - a PSP permit “may be granted by the Staff Hearing Officer” for an additional dwelling, reiterating that there is no obligation by the SHO or entitlement to the applicant for this dispensation.

The Municipal Code directs that “the location of such additional dwellings shall comply with the provisions of all other applicable ordinance.” Id. The zoning ordinance prohibits secondary dwelling units in High Fire Hazard Areas. § 28.94.030.Z.11. The Project is in a High Fire Hazard Area. Adding a second dwelling unit is prohibited by ordinance, and as such, the PSP cannot be granted. Staff has indicated they believe a definitional distinction applies, even though the term “additional dwelling unit” is not specifically defined in the zoning ordinance. Sophistic arguments aside, the Project is adjacent to expansive stands of mature chaparral on the steep slopes of Sycamore Canyon - areas that did not burn in either the Tea or Jesusita Fires and thus are still highly prone to wildfire. Fire access is restricted not only by the narrow, fourteen (14) foot wide Green Ridge Lane but also the acute geometry (approximately 160 degree) and steep section of Green Ridge Lane’s intersection with Mission Ridge Road. The prohibition against secondary dwelling units in High Fire Hazard Areas reflects a common-sense awareness that adding multiple families to single driveways, especially on long private roads, is a recipe for disaster. A hasty emergency evacuation of the residents (some of whom are not mobile and require assistance) of Green Ridge Lane while emergency responders are going down the lane to address a fire is simply impossible on a fourteen foot wide road. Thus, in spite of Staff’s belief

in a definitional distinction between secondary and additional dwelling units, the policy rationale for the prohibition of multiple dwellings on single lots applies with vigor to this Project due to its location in the High Fire Hazard Area. The wildfire hazard inherent in Santa Barbara's foothills militates towards a reduced number of families living on this lot, not more.

The Fire Department's acceptance of a substandard road is not dispositive of the adequacy of the roadways for ingress and egress, and in fact, does not overtly purport that it is. The SHO must make an independent evaluation and determination that there are "adequate provisions for ingress and egress" in light of the community roadway capacity. SBMC §28-93-030.E. A recent independent audit of the status of the City's foothill roadways concluded "[m]any of the roads in the Foothill and Extreme Foothill Zones do not meet current Fire Department access . . . standards." (Final Engineer's Report, FY 2010-11, City of Santa Barbara Wildland Fire Suppression Assessment, May 2010, page 2, attached as Exhibit 4). As developed more fully herein, there is ample evidence of the inadequacy of roadways to accommodate additional residents in the area of the Project, and the Fire Department letter fails to address the required adequacy of ingress and egress. Thus the SHO is without evidence to make the required findings.

3. A Categorical Exemption Is Not Available For This Project

Staff has summarily concluded that the Project is categorically exempt without performing the required environmental assessment. The Project is not categorically exempt from CEQA because: a) the project is too large to apply to the small structures exemption; and b) unusual circumstances preclude the use of a categorical exemption. Additionally, the Project is inconsistent with various aspects of the City's Codes, Guidelines and Plans including the Santa Barbara Municipal Code (Neighborhood Protection Ordinance, etc.), Single Family Design Board Guidelines, Single Family Residence Design Guidelines, and the City of Santa Barbara Wildland Fire Plan. Due to these numerous inconsistencies and the public safety risks that they pose, we ask that you direct the applicant to reduce the size of the development including disallowing the second dwelling unit.

A. The Project Is Not Categorically Exempt from CEQA

In enacting CEQA, the legislature empowered the Secretary of the Resources Agency to exempt certain classes of projects which have been determined not to have a significant effect on the environment. Pub. Resources Code § 21084 (a). These classes of projects are now listed in the CEQA Guidelines. The City contends the Project is exempt from CEQA under the Guidelines §15303 for "New Construction or Conversion of Small Structures":

15303. NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and

the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

For reasons articulated below, this exemption is not available for the Project and CEQA compliance is required before the Project may be lawfully approved.

i. A Categorical Exemption is Unavailable Because the Project is Not a Small Structure

The § 15303 exemption is limited to “construction ...of ...small facilities or structures.” The Project is very large. The Project has structures totaling over 8,500 square feet, in contrast to the current existing structure totaling just 2,847 square feet.

The size exceeds the recommendations for Floor to Lot Area Ratios (FAR) delineated in the Single-Family Residence Design Guidelines (“SFR Guidelines”). Compatibility Guideline No. 8 states that applicants should strive for a project which falls in the “less than 85% of maximum FAR” range for the project size. (SFR Guidelines, p. 21-C). Although maximum FARs are applied as guidelines rather than requirements on lots that are 15,000 square feet or larger, the SFR Guidelines have calculated recommended FARs for projects that exceed 15,000 square feet. This 31,584 square foot lot is just under $\frac{3}{4}$ acre.¹ According to the SFR guidelines the recommended dwelling area (85% of maximum FAR) for a $\frac{3}{4}$ acre lot is 4,127 square feet. (SFR Guidelines, p. 23-C). The Project’s total net square footage for all site structures is 5,899 square feet, exceeding the maximum recommended area by 1,772 square feet.

Apparently in order to circumvent the FAR guideline, the FAR for the Project has been calculated assuming that the single lot has been split into two lots: one measuring 15,000 square feet and one measuring 16,584 square feet. With this arbitrary lot division, the FAR of Unit 1 is calculated to be 99.9% and the FAR of Unit 2 at 34%. However, even though they are physically attached to Unit 1, the 459 square foot garage and 125 square foot storage unit have both been attributed to Unit 2. This appears to have been apportioned to ensure that the Unit 1 FAR is less than 100%. Regardless of whether the lot is split or not, or whether a garage and storage structure are located adjacent to Unit 1 and attributed to Unit 2, the maximum FAR guidelines of 85% have been exceeded, and this Project is considered large under the City’s Guidelines and criteria.

¹ The ratio is higher if the lot is smaller.

Additionally, the SFR Guidelines recommend that "careful consideration should be given to projects that propose greater than 250 square feet of [covered porches, loggias, covered decks] or when they are greater than 10% of the total net square footage of the structure." (SFR Guidelines p. 20-C). The Project proposes 1,111 square feet of covered porches, decks and trellises, which constitute 19% of the total net square footage of the structure, and again greatly exceed the SFR Guidelines.

The large size of this Project including: 1) exceeding the recommended FAR guidelines for dwellings by 1,772 square feet; 2) exceeding the covered porches guidelines by 861 square feet; and 3) adding 4,201 square feet of additional paved surfaces precludes the use of the §15303 Categorical Exemption for small structures. We ask that either you require the applicant to conform with the FAR guidelines or require an environmental impact report for this large structure.

ii. Unusual Circumstances Preclude the Use of a Categorical Exemption

A categorically exempt project loses its exempt status if there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. Guidelines § 15300.2 (c); *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal. App. 4th 1098, 1105. To sustain the "unusual circumstances exception", the evidence must show some feature of the project that distinguishes it from others in the exempt class. *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*, 139 Cal. App. 4th 1356, 1394 (Cal. App. 6th Dist. 2006).

The Project is "unusual" due to: 1) its large size, both in its dwelling area and outdoor paved surfaces (see above); 2) its adverse effect on the views and aesthetics of the area (see below); and 3) its location in a High Fire Hazard Area and lack of adequate fire access (see below).

In order to determine whether there is a reasonable possibility that the activity will have a "significant effect on the environment" the Agency should conduct an Initial Study using an environmental assessment or similar analysis.... (CEQA Guidelines §15063(a)(2)). Since the City of Santa Barbara has not adopted thresholds for its agencies to conduct consistent and efficient Initial Studies, we look to Appendix G of the CEQA guidelines to determine whether the Project will have a "significant effect" on the environment. In this case we find there are potential significant effects in the "Aesthetics" and "Hazards and Hazardous Materials" sections delineated in Appendix G. Therefore, the §15303 Categorical Exemption should again be precluded based on the "unusual circumstances" exception and an environmental impact report should be required.

City practice for SHO actions on PSPs typically includes a step labeled "environmental assessment." Unfortunately, there is apparently no defined procedures for conducting an

environmental assessment. The Staff Report's brief attempt at justification of a Categorical Exemption can not suffice as an environmental assessment.

iii. Pattern and Practice: Failure to Adopt Thresholds of Significance

CEQA encourages each public agency to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. (CEQA Guidelines § 15064.7). By adopting thresholds of significance, a lead agency "promotes consistency, efficiency, and predictability" in the environmental review process. (Office of Planning and Research, *Thresholds of Significance: Criteria for Defining Environmental Significance* (CEQA Technical Advice Series, 1994), p. 4)). The City of Santa Barbara to date has no adopted CEQA thresholds of significance. Rather, thresholds used for individual projects derive in part from the antiquated Master Environmental Assessment (MEA), from the CEQA Guidelines, from Staff memoranda, and other unknown sources in an *ad hoc* manner. Many City environmental documents, fail to identify the source of the specific thresholds used for individual impact categories. This creates inconsistency and unpredictability in the City's environmental review of each project, deprives the public of the ability to verify the source of a given threshold, and creates the potential for each environmental document to utilize the threshold that best achieves the desired outcome. This failure to adopt thresholds of significance, undermining the consistency and legitimacy of City environmental documents, constitutes a pattern and practice of violating the requirements of CEQA.

iv. Aesthetic Impacts

In the absence of the City's adopted thresholds of significance, we look to Appendix G of the CEQA Guidelines for impact thresholds. Regarding aesthetic impacts, Appendix G (in pertinent part) recommends that the lead agency consider if the project would: "1) have a substantial adverse effect on a scenic vista, or 2) substantially degrade the existing visual character or quality of the site and its surroundings?" (CEQA Guidelines, Appendix G).

Any substantial negative effect of a project on view and other features of beauty could constitute a significant environmental impact under CEQA. (*Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1604.)

"That a project affects only a few private views may be a factor in determining whether the impact is significant." *Ocean View Estates Homeowners Association, Inc. v. Montecito Water District* (2004) 116 Cal.App. 4th 396, 402. "As on other CEQA topics, the opinions of area residents, if based on direct observation, may be relevant as to aesthetic impact and may constitute substantial evidence in support of a fair argument; no special expertise is required on this topic. (*Ocean View Estates, supra*, 116 Cal.App.4th at p. 402.)" *The Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App 4th 903, 937

The Riviera is renowned for its views of the City, the waterfront and the Ocean. Chase Palm Park offers a visual punctuation to the interface of sea and land, while sunsets and sunrises

inspire on a daily basis. From High Ridge and Green Ridge Roads, the site is visible, as it is from most of the residences on these streets.

City General Plan Visual Resources Policy 3.0 states: "New development shall not obstruct scenic view corridors, including those of the ocean and lower elevations of the City viewed respectively from the shoreline and upper foothills, and of the upper foothills and mountains viewed respectively from the beach and lower elevations of the City." There is no modifier "important" limiting which view corridors can be sacrificed and which saved, nor does the text of Policy 3 suggest that obstruction of some scenic view corridors is appropriate. In this case, staff has improperly inserted the qualifier "important" to viewing locations or scenic corridors. The General Plan protects scenic corridors, and the Project is located in a prominent and highly visible location on the Riviera. The Open Space Element designates the Project area as a Major Hillside with open space features and values that should be protected. Page 102. The Conservation Element notes that hillsides provide visual resources to residents, using the Riviera as an example that provides views of the ocean and mountains. Page 10. As the Constitution for all development in a community (*Leshner Communications v. City of Walnut Creek* (1990) 52 Cal. 3d 531, 540) against which all City actions must be consistent, the General Plan is missing from the Staff Report's analysis.

Further, the visual resources goals and policies counsel the CEQA process and serve as thresholds in the absence of other objective criteria. Inconsistencies with the General Plan signal potential CEQA significant impacts, and there is no effort at reconciling these apparent inconsistencies with the CEQA analysis.

v. Fire Hazard

Appendix G of the CEQA Guidelines also lists "Hazards and Hazardous Materials" as a potential impact that should be addressed in an agency's Initial Study. Appendix G (in pertinent part) recommends that the lead agency consider if the project would:

- (1) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? or
- (2) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

The fire hazard present in the Project's neighborhood is an unusual circumstance that distinguishes the Project from other small structures in the Class 3 exemption class. The Project is located along Mission Ridge Road in the "Foothill Zone" which has been designated by the Santa Barbara Wildland Fire Plan ("WF Plan," excerpts attached as Exhibit 5) as a "High Fire Hazard Area." (WF Plan, p. 37, Figure 19).

The WF Plan describes the Foothill Zone as follows: "The potential fire behavior in this zone is considered high to extreme depending on weather and fuel conditions. This zone is defined as areas within the City where a combination of flammable chaparral, oak forest, riparian

vegetation, eucalyptus groves, and landscaped fuels intermix with residential areas to pose a significant fire threat.” (WF Plan, § 2.5.2.).

The City has designated the Foothill Zone as “high risk” as it pertains to the roads. (WF Plan, p. 41, Table 3). The main roads are a “mixture of conforming and existing non-conforming” and are “further narrowed due to vegetation encroachment.” They do not meet the Fire Department’s access standards. These conclusions are reiterated in the 2010 Engineers Report, Exhibit 4. Additionally, the Project is located at the end of a dead-end road that is over 300 ft long. The WF Plan assigns High Ridge Road and Green Ridge Lane to an evacuation unit located to the east. Mission Ridge Road, to which they attach, is in a different evacuation unit. Exhibit 5, page 66.

And, although the Project’s second dwelling unit does not require a Conditional Use Permit, the City’s Zoning Ordinance has banned second dwelling units in “High Fire Hazard Areas”. (SBMC 28.94.030). Thus indicating that the City has determined that additional dwelling units in High Fire Hazard Area pose a safety risk. Notably, Government Code section 815.6 provides: “Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty.” Adding a new residence to the end of Green Ridge Road endangers the ability of other residents to evacuate safely in emergency conditions.

In conclusion, the Project’s location in a High Fire Hazard Area differentiates it from others in the exempt class (of small structures) and poses a significant environmental effect due to its interference with emergency evacuation plans and fire access as well as significant risk of loss, injury or death involving wildland fires.

vi. Location in a Particularly Sensitive Environment Precludes the Use of a Categorical Exemption

A categorically exempt project may also lose its exempt status if they are located in a particularly sensitive environment. Class 3 exemptions (including § 15303) “are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.” (CEQA Guidelines §15300.2).

This Project is located in a “High Fire Hazard Area” with inadequate fire access as determined by the City and the independent Engineer’s Report. CEQA therefore requires environmental review before the Project may be approved. (CEQA Guidelines § 15300.2 (c)).

vii. Cumulative Impacts

A Categorical Exemption is not available when a project may have cumulative impacts. Guidelines § 15300.2(b). Approval of an excessive oversized set of structures, plus a second residential unit, will incite other nearby landowners to consider similar over-development of their lots, resulting in additional traffic on narrow windy roads and the semi-rural nature of the area transitions to an urban setting.

Additionally, replacing 2,700 square feet of structure with over 10,000 square feet of new development, including a new pool and other amenities will materially increase the number of employees assisting with the maintenance and servicing of such a large property, contributing to a cumulative Project impact.

4. The Project Should Be Revised to Comply with Santa Barbara Codes, Plans and Guidelines or the Current Permit Should Be Denied

The Project lacks compliance with numerous City of Santa Barbara Codes, Guidelines and Plans. Specifically, the Project: 1) exceeds FAR guidelines and is not compatible with other homes in the neighborhood; 2) does not protect the health, safety and welfare of the neighborhood due to its proposed second dwelling and location in a high fire hazard zone; 3) does not comply with the Good Neighbor Guidelines; and 4) does not protect public and scenic views of and for the hillside. We ask that you either direct the applicant to comply with these guidelines regarding FARs, neighborhood compatibility, fire safety hazards and views, or require an environmental impact report.

5. A Performance Standard Permit Should Not Be Granted for the Second Dwelling Unit Due to Public Safety and Evacuation Hazards

Where a lot in an E-1 Zone has an area of more than the required lot area for that zone *and adequate provisions for ingress and egress*, a Performance Standard Permit may be granted by the Staff Hearing Officer for the construction of additional one-family dwellings and allowable accessory buildings in these zones. (SBMC 28.93.030).

Based on the reasons above regarding the large size of the Project, the safety concerns regarding fire access and the visual impacts we ask that you deny the Performance Standard Permit for the second dwelling unit. This Project does not adequately provide for ingress and egress for either the Fire Department or the added traffic of a second dwelling unit.

City Fire Development Standards require driveways of at least 16' width for adequate access. Exhibit 7. The width is measured by the paved area that can support a 60,000 pound fire truck. Id. The driveway (Green Ridge Lane) is 16' wide in most places, but narrows to 14' for one section and remains less than 16' in width for approximately 20'.

The City's most recent assessment of the adequacy of wildfire response capacity (Final Engineer's Report, FY 2010-11, City of Santa Barbara Wildland Fire Suppression Assessment, May 2010) concluded that "[m]any of the roads in the Foothill and Extreme Foothill Zones do not meet current Fire Department access . . . standards." Green Ridge Lane, the only access for the new residence, is one such road. The WF Plan makes similar conclusions.

The City's 16' minimum width standard for all private roads and driveways is itself outdated and poses a significant public safety risk. The County of Santa Barbara recognizes that the more houses share a common driveway or private road, the wider that road should be. See, for example, the Santa Barbara County Private Road and Driveway Standards: Development Standard # 1, attached as Exhibit 6. Although these don't control, they are based on the California Fire Code (CFC) and reflect more current standards than the City is using. A driveway serving 2 lots may have a 16' width, but driveways serving 3 to 9 houses require a 20 foot width. CFC 902.1. Any private road serving 2 or more houses requires a 24' width. CFC 902.2.2.1.

There is considerable relevant information available to evaluate the state of Project area roadways. Professor Tom Cova's seminal study Public Safety in the Urban-Wildland Interface: Should Fire-Prone Communities Have a Maximum Occupancy?, Natural Hazards Review, August 2005 looked specifically at the challenges of evacuating a Santa Barbara foothill community in emergency conditions. Exhibit 8. Professor Cova studied Mission Canyon and concluded that "[r]esidential development in fire-prone areas is continuing without commensurate improvements to community-based transportation egress systems." Id., p. 107. Professor Cova's thesis has been that neighborhoods have evacuation capacities limited by the roadways, and that Mission Canyon's steep, twisty, over parked and narrow roadways substantially impaired evacuation capacity. The Riviera has similar road conditions.

Cova's results are validated, and the complexity of the modeling of this issue expanded in Emergency Planning in the Urban-Wildland Interface: Subdivision-Level Analysis of Wildfire Evacuations, Brian Wolshon, and Emile Marchive III, Journal of Urban Planning and Development, March 2007, attached as Exhibit 9. Professor Wolshon concluded that evacuation modeling of neighborhoods threatened with wildfire should look at both microscopic platforms (neighborhood level) as well as macroscopic modeling systems (regional level). Id., at p. 74. The neighborhoods in Wolshon's study also possessed winding, narrow and steep roadways. Id., p. 75. Wolshon concluded, not surprisingly, that the greater the volume of traffic to evacuate, the greater the time required. Id., 80.

The end result is that the City has failed to analyze or even consider the effect of additional dwellings and residents on emergency evacuation capacity. While it is true that any number of uncertainties could and would affect how well an evacuation could proceed, in light of the several studies cited herein concluding that there is currently inadequate emergency evacuation

capacity on area roads, adding a single additional car to an emergency wildfire evacuation could cross the tipping point. The simple fact is that our foothill communities, including the Riviera generally and Green Ridge Road specifically, are oversubscribed, and in a reasonable worst-case fire scenario, some people will not be able to escape. If they happen to leave their homes and are blocked or stopped, or overtaken by flames, they will likely die. That happened in Oakland in 1991 and in Greece on August 26, 2007. See Exhibit 10, on the East Bay Fires; see also Los Angeles Times, August 27, 2007, LATimes.com. ("Most of the people killed in Greece's worst fires in decades were burned to death as they tried to flee, trapped in their cars or in charred fields.") Many, if not all of the conditions that led to the Oakland deaths are present or can easily occur in the Riviera. There has been no showing of adequate ingress and egress, and the PSP should be denied.

6. The SHO Should Decline To Act On This Application And Request Planning Commission Review Of The Project

The City's SHO program was not intended to include complex or controversial land use permitting projects. "The main goal of the Staff Hearing Officer (SHO) program, which was created in 2006, is to improve and simplify the discretionary planning process for projects that are generally non-controversial and do not involve major land use policy considerations. The benefits include freeing up Planning Commission time to spend on projects with broader community and policy issues. It will also enable staff to put their resources into the larger projects, while streamlining the smaller, less controversial ones."

<http://www.santabarbaraca.gov/Government/Hearings/SHO/>

It is evident from the SFDB minutes that numerous neighbors have raised concerns over this project, as validated by the SFDB's own action directing a "substantial" reduction in the Project size. Staff is aware this was and is a controversial project. The Project has evolved to involve more significant land use policy considerations, including emergency access, survey data adequacy, General Plan and zoning ordinance consistency, etc. As such this exceeds the intention for SHO matters.

Commenters were advised by planning staff that there had been considerable discussion in the Planning Department and among planning department staff regarding this project, including a consideration of the timing for story poles. Apparently the expectation that this project would be appealed to the Planning Commission was one justification for the decision to not grant our request that story poles be installed before the SHO hearing. It is unfair to the public and the applicant to prevent the early disclosure of information critical to a public concern over a land use project and to force an appeal to the Planning Commission. Under these circumstances, and where the SHO themselves may have been privy to such discussions, fairness and economy dictates that the SHO should demur and take no action on the Project, and instead send it to the Planning Commission for action. This will trigger installation of story poles, and potentially

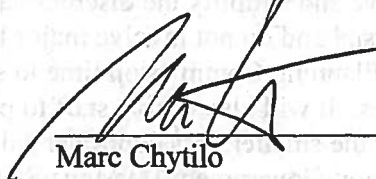
enable a more productive conversation between the applicant and surrounding neighbors that could eliminate much or all of the controversy.

7. Conclusion

In conclusion, we request that you direct the applicant to reduce the project size to conform with the City's Codes, Guidelines, and Plans, and perform an environmental analysis pursuant to CEQA. The Project is not categorically exempt from CEQA because a) the project is too large to apply to the small structures exemption; and b) unusual circumstances preclude the use of a categorical exemption. In addition, we ask that you deny the Performance Standard Permit for the second dwelling unit to reduce the impacts of this large project.

Sincerely,

LAW OFFICE OF MARC CHYTILO


Marc Chytilo

Exhibits

1. Email, Marc Chytilo to Thomas Sanborn, RE: Request for Discussion of Concerns and Story Poles, January 19, 2011
2. Letter, Marc Chytilo to Jaime Limon, Santa Barbara Community Development Department, December 28, 2010
3. City of Santa Barbara Parcel Lookup Results - Details, 8/27/2010
4. Final Engineer's Report, FY 2010-11, City of Santa Barbara Wildland Fire Suppression Assessment, May 2010, pages 1-2
5. City of Santa Barbara Fire Department Wildland Fire Plan, 1/21/2004, pages 25, 41, 64-65
6. Santa Barbara County Private Road and Driveway Standards: Development Standard # 1

Ms. Susan Reardon

January 21, 2011

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7. City of Santa Barbara Fire Prevention Bureau Access and Hydrant Information, 5/17/01
8. Cova, Thomas, Public Safety in the Urban-Wildland Interface: Should Fire-Prone Communities Have a Maximum Occupancy?, Natural Hazards Review, August 2005
9. Emergency Planning in the Urban-Wildland Interface: Subdivision-Level Analysis of Wildfire Evacuations, Brian Wolshon, and Emile Marchive III, Journal of Urban Planning and Development, March 2007
10. United States Fire Administration, Technical Report Series, The East Bay Hills Fire,, Oakland-Berkley, California, FEMA, excerpts

EXHIBIT 1

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

February 7, 2011

RECEIVED
FEB 07 2011
CITY OF SANTA BARBARA
PLANNING DIVISION

VIA HAND DELIVERY
Mr. John Jostes, Vice Chair
Santa Barbara City Planning Commission
c/o Planning Division
Community Development Department
630 Garden Street
Santa Barbara, California 93101

RE: Appeal of SHO Approval (January 26, 2011)- Application # MST2010-00186
1233 Mission Ridge Road

Vice-Chair Jostes and Members of the Planning Commission,

This office represents Judy and David Denenholtz who hereby appeal the Staff Hearing Officer's January 26, 2011 decision issuing a Performance Standard Permit and authorizing a second dwelling unit as part of a proposed residential project located on the private Green Ridge Lane in Santa Barbara's upper Riviera neighborhood but with a street address of 1233 Mission Ridge Road ("Project"). The Denenholtzs are homeowners near the Project and are concerned about several aspects of the Project including the size, bulk and scale of the project; the Project's blockage of views from homes, streets, and open space areas of the ocean and city; the adequacy of existing roadways, in particular Green Ridge Lane, to provide safe and adequate ingress and egress during wildfire-induced emergency conditions; safety issues surrounding emergency vehicle access based on past experience; and the City's compliance with CEQA. A number of other neighbors have expressed strong reservations about the project and appeared in opposition before the Single Family Design Board (SFDB) and the Staff Hearing Officer. We ask that the Planning Commission reverse the Staff Hearing Officer's decision by denying the Performance Standard Permit for an additional dwelling unit, and directing the preparation of an environmental impact analysis for the remainder of the Project.

This appeal is addressed to the Vice Chair as Planning Commission Chairman Bartlett has appeared on behalf of the owner at the SFDB and may not participate in this proceeding. Gov. Code § 87100, et seq.

The preliminary issues in this appeal are as follows:

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Issue #1: Inadequate Findings

Findings serve an essential function in administrative decisionmaking, in identifying the substantial evidence upon which a decision is based, demonstrating compliance with all statutory and regulatory criteria and requirements, bridging the analytic gap between the raw evidence and the ultimate decision. *Orinda Ass'n v. Bd. of Supervisors* (1986) 182 Cal. App. 3d 1145, 1162, citing *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal. 3d 506, 510. When a statute imposes specific details to the necessary findings, there is a "burden on the approving agency to affirmatively show that it has considered the identified means of [complying with the statute]." *Village Laguna of Laguna Beach v. Board of Supervisors of Orange County* (1982) 134 Cal. App. 3d 1022, 1034.

The minutes of the SHO hearing state that the SHO adopted the findings as contained in the Staff Report. The Staff Report includes the following:

VI. FINDINGS

The Staff Hearing Officer finds the following:

A. PERFORMANCE STANDARD PERMIT (SBMC 28.93.030)

The Staff Hearing Officer finds that the Performance Standard Permit complies with all standards of SBMC 28.93.030.E, including adequate lot area for two residential units, with associated existing accessory space, and adequate ingress and egress for each residence. The Additional Dwelling Unit has adequate ingress and egress, complies with all ordinance standards including height and setbacks, and is located on a lot of adequate size for an Additional Dwelling Unit in the E-1 zone district, as described in Section IV of the staff report.

The Findings fail to identify the substantial evidence supporting these conclusions, do not recite to the applicable authority concerning the adequacy of surveys or the standards for ingress and egress, and fail to bridge the analytical gap. They constitute little more than just recitation of the ordinance. This abbreviated finding deprives the public and reviewing decisionmakers of any information regarding the City's analysis and consideration of the evidence.

Issue # 2: Compliance with Performance Standard Permit Requirements for Additional Dwelling Units (SBMC § 28.93.030E)

The Staff Hearing Officer's action approving an additional dwelling unit on Green Ridge Lane is not in accord with SBMC § 28.93.030E. In order to grant a Performance Standard Permit ("PSP"), the Staff Hearing Officer must find that: 1) the lot has an area two times the lot area required for one unit in the E-1 zone (30,000 square feet for 2 dwelling units); 2) there are adequate provisions for ingress and egress; and 3) the location of the additional dwelling complies with all applicable ordinances. (SBMC 28.93.030E.). This permit was improperly approved because the Staff Hearing Officer did not have evidence to support determinations

regarding: 1) whether this lot has more than the required lot area (30,000 square feet); 2) whether adequate provisions for ingress and egress exist for the additional dwelling unit; and 3) whether the location of the additional dwelling unit complies with all applicable ordinances. Additionally and separately, this project and permit should not and cannot be approved due to the lack of evidence of lot size and the substandard and nonconforming nature of vehicular access.

1) Lot Size

The subject property is zoned E-1 and requires a minimum lot area of 15,000 square feet per unit. Therefore, the lot must be at least 30,000 square feet to meet the PSP requirement for two residences. SBMC § 28.93.030.E.

There is evidence in the record gained from City files that the lot is 28,964.64 square feet. Exhibit 1. The Assistant Planner testified at the SHO hearing that three surveys had been conducted on this lot, each finding the lot to exceed 30,000 square feet. However, the City Planning file indicates that there are no actual surveys, and only one letter from a surveyor that calculated the area of the lot using a 1947 legal description of the property. Appellants have made several reviews of the record, and specifically requested the surveys on several occasions. The SFDB was told there was a survey on file, as was the SHO; when in fact there is no physical survey, only a calculation of area based on an ancient and unverified legal description. It is well known that surveys performed over fifty year ago were not entirely accurate, and some portion of the claimed lot may have been lost by adverse use and possession if occupied by an adjacent building or if the legal description is otherwise in error. The SHO relied on evidence not in the record in the form of staff's incorrect assertion that there were in fact three surveys in the record. This letter is concomitantly a request under the Public Records Act, Gov. Code § 6250 for copies of the three separate physical surveys relied on by the SHO, as they have not been included within the City's planning or design files before the date of the SHO hearing, or were otherwise withheld from appellants.

2) Adequate Ingress and Egress Does Not Exist

The Project is located on a substandard, non-conforming road in a very hazardous part of the City. Green Ridge Lane lacks sufficient width to accommodate any intensification of development or use. There are currently more developed residential lots that rely on Green Ridge Lane as their access than are permitted under the currently applicable zoning ordinance. Approval of a PSP will increase both the amount of development served by the nonconforming Green Ridge Lane and the level of use and activity that will be experienced on the roadway.

a) High Fire Hazard Area Background

The Project is located in the City's "High Fire Hazard Area" due to exposure to wildfire risk. The Project area was evacuated for both the Tea and Jesusita fires in the last 2 years, and is

adjacent to the steep slopes of Sycamore Canyon that remain covered with dense stands of mature chaparral vegetation. This combination of steep slopes and mature vegetation create extraordinary wildfire risks for residents. See generally the Seismic Safety-Safety Element, August 1979, pages 55 et seq. This hazard is exacerbated by Global Climate Change, which is widely accepted to be increasing the frequency and intensity of wildfire, including in Santa Barbara. See, generally, Plan Santa Barbara FEIR, § 18.1.4.

The City has designated the Foothill Zone as “high risk” for wildfire hazard due in part to inadequate roadways. (See Santa Barbara Wildland Fire Plan, Table 3; hereinafter “WF Plan;” excerpts attached as Exhibit 2). The main roads in the Foothill Zone are a “mixture of conforming and existing non-conforming” and are “further narrowed due to vegetation encroachment.”

The hazardous conditions of roadways in the high fire hazard zones is further documented in the recent independent audit of the status of the City’s foothill roadways. The Auditing Engineer concluded “[m]any of the roads in the Foothill and Extreme Foothill Zones do not meet current Fire Department access . . . standards.” (Final Engineer’s Report, FY 2010-11, City of Santa Barbara Wildland Fire Suppression Assessment, May 2010, page 2, attached as Exhibit 3.)

Additionally, the Project is located at the end of a dead-end road that is over 300 ft long and does not provide adequate space for multiple vehicles to turn around. Emergency equipment serving the Project must pass five other driveways that could have exiting traffic or other obstructions in event of an emergency evacuation to gain access to the Project.

The WF Plan assigns High Ridge Road and Green Ridge Lane to an evacuation unit located to the east. Mission Ridge Road, to which they attach, is in a different evacuation unit. Exhibit 5, page 66. This very unusual assignment create considerable doubt how Green Ridge Lane residents would be evacuated - a strict reading of the WF Plan could have them existing out through Sycamore Canyon. Residents have no assurances that they will be correctly advised during a wildfire - advice which may be essential to survival.

b) Ingress and Egress on Green Ridge Lane Does Not Comply with City Fire Development Standards

In 2010 the Santa Barbara City Council adopted Ordinance No. 5535 amending the existing Fire Code to adopt the state Fire Code’s standards and in particular delineating standards for fire access roads as follows:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of **not less than 20 feet** (6096 mm) except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches. If a fire apparatus access road serves three or fewer single-

family residential units, the required width may be reduced to not less than 16 feet (4879 mm) upon the approval of the fire code official. (Emphasis added.)

Green Ridge Lane currently serves six residences and according to the City's ordinance should measure not less than 20 feet wide. In fact, the road is barely 16 feet wide at its widest points, and narrows below 16 feet for about 20 feet, in some places to as little as 14 feet.¹ The road is inadequate to serve the homes it serves now, and clearly cannot accept additional residences or increased levels of use without compromising the safety of existing and new residents. Recently emergency vehicles were blocked by parked vehicles on Green Ridge Lane, compromising response to a Green Ridge Lane resident experiencing a medical emergency. Green Ridge Lane was too narrow and competing parked traffic prevented complete emergency vehicle access.

The Fire Department's acceptance of a substandard road is not dispositive of the adequacy of the roadway for ingress and egress, and in fact, does not overtly purport that it is. It is important to note that evacuation during wildfire and similar emergency conditions is typically managed by law enforcement, not the Fire Department, whose role is to respond to the fire while law enforcement manages evacuation. The Planning Commission must make an independent evaluation and determination that there are "adequate provisions for ingress and egress" in light of the community roadway capacity. SBMC §28-93-030.E. There is ample evidence of the inadequacy of roadways to accommodate additional residents in the area of the Project, and both Fire Inspector Jim Austin's letter and testimony at the hearing failed to address the required adequacy of ingress and egress. Thus the Planning Commission must deny the proposed PSP due to the fundamental shortfall in essential roadway capacity.

c) Studies and Experience Show that Adding Dwelling Units Without Improving Egress is Hazardous

There is considerable relevant information available to evaluate the state of Project area roadways, and demonstrate that adding more residents compromises everyone's ability to safely evacuate. Professor Tom Cova's seminal study Public Safety in the Urban-Wildland Interface: Should Fire-Prone Communities Have a Maximum Occupancy?, Natural Hazards Review, August 2005 looked specifically at the challenges of evacuating a Santa Barbara foothill community in emergency conditions. Exhibit 8. Professor Cova studied Mission Canyon and concluded that "[r]esidential development in fire-prone areas is continuing without commensurate improvements to community-based transportation egress systems." Id., p. 107. Professor Cova's thesis has been that neighborhoods have evacuation capacities limited by the roadways, and that Mission Canyon's steep, twisty, over parked and narrow roadways substantially impaired evacuation capacity. The Riviera has similarly constraining road conditions.

¹ The Fire Code specifies that roadway widths are measured from the face of curbs, where present, and must be surfaced to provide all-weather driving capabilities. CFC 902.2.2.2.

Cova's results are validated, and the complexity of the modeling of this issue expanded in Emergency Planning in the Urban-Wildland Interface: Subdivision-Level Analysis of Wildfire Evacuations, Brian Wolshon, and Emile Marchive III, Journal of Urban Planning and Development, March 2007, attached as Exhibit 9. Professor Wolshon concluded that evacuation modeling of neighborhoods threatened with wildfire should look at both microscopic platforms (neighborhood level) as well as macroscopic modeling systems (regional level). *Id.*, at p. 74. The neighborhoods in Wolshon's study also possessed winding, narrow and steep roadways. *Id.*, p. 75. Wolshon concluded, not surprisingly, that the greater the volume of traffic to evacuate, the greater the time required. *Id.*, 80.

The end result is that the City has failed to analyze or even consider the effect of additional dwellings and residents on emergency evacuation capacity. While it is true that any number of uncertainties could and would affect how well an evacuation could proceed, in light of the several studies cited herein concluding that there is currently inadequate emergency evacuation capacity on area roads, adding a single additional car to an emergency wildfire evacuation could cross the tipping point. The simple fact is that our foothill communities, including the Riviera generally and Green Ridge Lane specifically, are oversubscribed, and in a reasonable worst-case fire scenario, some people will not be able to escape. If they happen to leave their homes and are blocked or stopped, or overtaken by flames, they will likely die. That happened in Oakland in 1991 and in Greece on August 26, 2007. See Exhibit 10, United States Fire Administration, Technical Report Series, The East Bay Hills Fire,, Oakland-Berkley, California, FEMA, excerpts, on the East Bay Fires. See also Los Angeles Times, August 27, 2007, LATimes.com. ("Most of the people killed in Greece's worst fires in decades were burned to death as they tried to flee, trapped in their cars or in charred fields.") Many of the conditions that led to the Oakland deaths are present or can occur in the Riviera.

Again, given the location of the Project in a high fire hazard area in a neighborhood of narrow winding roadways, there has been no showing of adequate ingress and egress for adding a dwelling unit to Green Ridge Lane, and the PSP should be denied.

d) The Existing Development Is Non-Conforming and the Proposed Development Will Improperly Expand That Nonconforming Use

The existing guesthouse on the site is non-conforming with applicable E-1 zoning, which allows only a single family home in the zone district. A second dwelling unit is prohibited in the E-1 zone district when in a high fire hazard area. § 28.94.030.Z.11. While "additional one-family dwellings" are arguably allowable with a PSP, the existing guest house does not have the benefit of a PSP and as such is currently non-conforming under existing zoning. It is axiomatic that the City cannot allow the expansion of nonconforming uses. See generally *Edwards v. County of Los Angeles* (1953) 40 Cal. 2d 642, 651 (contrasting a landowners rights regarding continuance of nonconforming uses with proposals to expand such uses).

Additionally, the E-1 zone requires at least 90' of public street frontage. SBMC §28.15.080. The lot in question was separated from Arbolado Road by a lot split and has no public road frontage.

Finally, the uses associated with the existing development on the site is non-conforming as to roadway width and access. As noted above, the minimum roadway width for a residence on a private roadway serving 4 or more houses is 20'. The existing roadway is surfaced to 14' wide near its intersection with Mission Ridge Road, and remains below 16' for approximately 20'.

A PSP may only be issued if the additional dwellings "comply with the provisions of all other applicable ordinances." SBMC § 28.93.030.E.

The zoning ordinance includes provisions, as do most zoning ordinances, for the cessation of non-conforming uses and activities when there are physical changes at the property. SBMC § 29.87.035.B specifies that non-conforming uses may continue only if there is no enlargement of the space devoted to the non-conforming use. Once a non-conforming structure is replaced by a conforming structure, that structure "shall not thereafter be used or occupied by a nonconforming use. Id., at C. The zoning ordinance further establishes that these provisions apply to both structures and uses that become nonconforming due to "any subsequent change in regulations," such as the City's adoption of the 20' minimum road width standards. SBMC §29.87.035.

SBMC § 29.87.035 should be applied in light of its purpose to eventually conform the uses in each district to the zoning law and current regulations including the fire code. In this case, the City Council recently adopted a fire code with minimum fire access road requirements. Green Ridge Road is nonconforming to the new 20 foot safety access requirement and therefore any expansion of development (increasing the residences from six to seven) is an expansion of the nonconforming use.

The spirit of zoning ordinances and accompanying provisions allowing continued nonconforming uses is to restrict, not increase, the nonconforming use. *Edmonds v. County of Los Angeles* (1953) 40 Cal.2d 642, 651. Accordingly, courts generally sustain restrictions on extension or enlargement of a nonconforming use, thereby enforcing the zoning ordinance and upholding the police power. The public welfare must be considered from the standpoint of the objective of zoning and of all the property within any particular use district. *Rehfeld v. San Francisco*, 218 Cal. 83, 85. It was not and is not contemplated that pre-existing nonconforming uses are to be perpetual. *State ex rel. Miller v. Cain*, 40 Wn.2d 216.

Given the multiple forms of zoning ordinance nonconformance on this site, and in particular the inconsistency between minimum roadways widths and the existing conditions, the finding of adequate roadway ingress and egress - continuing and expanding a non-conforming use - is not supported by the evidence.

The existing "guest house" has been cited by the City as containing an unpermitted and illegal kitchen, and as such, is not a guest house at all. The applicant cannot claim any form of vested or other right to an illegal use of this structure. The applicant seeks a PSP for an "additional dwelling unit" that they have characterized as a "guest house" but is allowed as a "one-family dwelling." A one-family dwelling can presumably be used as any ordinary residence, unlike the existing structure which has no kitchen. There are no Project-specific conditions on the level of use, or limits imposed by the zoning ordinance, thus the City's analysis, for ingress/egress adequacy findings, zoning ordinance consistency, including nonconforming uses, and for CEQA impact analysis purposes must consider "worst case" levels of usage up to the maximum allowable under ordinance. There is no specific treatment or limitations for guest houses in the zoning ordinance, so the appropriate level of use is as a full-time one-family dwelling unit on the site. This use clearly involves a much higher level of activity and site utilization than the current conditions - a guest house with no kitchen - which conflict with the narrow roadway and nonconforming ingress and egress. Under the zoning ordinance, the City may not allow the expansion of the nonconforming roadway use as part of approving the expansion of structural development on the site. SBMC §29.87.035.C.

e) The Location of the Additional Dwelling Unit Does Not Comply with the Provisions of All Other Applicable Ordinances

The Municipal Code directs that "the location of such additional dwellings shall comply with the provisions of all other applicable ordinances." § 28.93.030E. The zoning ordinance prohibits secondary dwelling units in High Fire Hazard Areas. § 28.94.030.Z.11. The Project is in a High Fire Hazard Area. Adding a second dwelling unit is prohibited by ordinance, and as such, the PSP cannot be granted.

Staff has indicated they believe a definitional distinction applies between a "secondary dwelling unit" and an "additional dwelling unit," even though the term "additional dwelling unit" is not specifically defined in the zoning ordinance. Sophistic arguments aside, the Project is adjacent to expansive stands of mature chaparral on the steep slopes of Sycamore Canyon - areas that did not burn in either the Tea or Jesusita Fires and thus are still highly prone to wildfire. Fire access is restricted not only by the narrow, fourteen (14) foot wide Green Ridge Lane but also the acute geometry (approximately 160 degree) and steep section of Green Ridge Lane's intersection with Mission Ridge Road. The prohibition against secondary dwelling units in High Fire Hazard Areas reflects a common-sense awareness that adding multiple families to single driveways, especially on long private roads, is a recipe for disaster. A hasty emergency evacuation of the residents (some of whom are not mobile and require assistance) of Green Ridge Lane while emergency responders are going down the lane to address a fire is simply impossible on a fourteen foot wide road. Thus, in spite of Staff's belief in a definitional distinction between secondary and additional dwelling units, the policy rationale for the prohibition of multiple dwellings on single lots applies with vigor to this Project due to its location in the High Fire

Hazard Area. The wildfire hazard inherent in Santa Barbara's foothills militates towards a reduced number of families living on this lot, not more.

f) General Plan Inconsistencies

The Project conflicts with the WF plan policies identified supra. It conflicts with the Seismic Safety and Safety Element's Recommended Development Control that all proposals for new development comply with City regulations, (Seismic Safety and Safety Element at 61); that roadways be maintained at 32' in width on a 40' right of way, (id., at 59) and that emergency access routes for new subdivisions (to which the PSP is tantamount) be adequate to allow fire and other emergency service vehicles to gain access. Id., at 62.

Additionally, the Project conflicts with a number of initiated elements of Santa Barbara's General Plan revision, Plan Santa Barbara. These include LG6, and implementing action LG6.2, limiting new residential development in high fire areas; LG 16 and implementing action LG16.1 considering lower densities in areas in areas constrained by fire access and viewshed considerations; and H15, prohibiting second units in the high fire hazard zones. The City must consider the effect of proposed developments in light of initiated General Plan revisions.

As the blueprint for all development, the General Plan must be considered in all development actions. The General Plan makes repeated referrals to the goals, policies and needs to restrict second dwelling units in high fire hazard areas as a general rule. This rationale is heightened due to the inadequate width of Green Ridge Lane. General Plan inconsistencies necessitate denial of the PSP.

g) Nuisance

The proposed intensification of the development and activity on the site constitutes a nuisance for the residents of Green Ridge Lane and for residents of the Riviera that rely on Mission Ridge Road as an evacuation route. The project proposes to exacerbate a hazardous condition in an already hazardous area prone to wildfire. It fails to meet basic zoning ordinance standards to address public health and safety issues. As such it is a private and public nuisance. See generally SBMC §28.98.001 (any buildings or use of property contrary to zoning ordinance are public nuisance).

For all these reasons, appellant believes that the PSP permit should not and cannot be issued for the proposed Project. We ask the Planning Commission to overturn the decision of the SHO and deny the PSP.

Issue #3: The Project Requires CEQA Impact Analysis

A Performance Standard Permit is a discretionary action subject to CEQA. The code establishes that the SHO "may" grant a performance permit if the findings are made. SBMC § 28.93.020.A. The term "may" in the ordinance denotes an optional or discretionary action, as distinguished from the term "shall" that denotes a mandatory duty. See § 28.02.005. Section 28.92.030.E. again uses the term "may" - a PSP permit "may be granted by the Staff Hearing Officer" for an additional dwelling, reiterating that there is no obligation by the SHO or entitlement to the applicant for this dispensation.

1) A Categorical Exemption Is Not Available For This Project

The Staff Hearing Officer and planning staff have summarily concluded that the Project is categorically exempt from CEQA under the § 15303 exemption without performing any form of environmental assessment.

In enacting CEQA, the legislature empowered the Secretary of the Resources Agency to exempt certain classes of projects which have been determined not to have a significant effect on the environment. Pub. Resources Code § 21084 (a). These classes of projects are now listed in the CEQA Guidelines. The City contends the Project is exempt from CEQA under the Guidelines §15303 for "New Construction or Conversion of Small Structures":

15303. NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

The Project is not categorically exempt from CEQA because: a) the project is too large to apply to the small structures exemption; b) unusual circumstances preclude the use of a categorical exemption; c) its location in a particularly sensitive environment precludes the use of a categorical exemption; and d) the cumulative impacts preclude exemption. The Staff Hearing Officer's findings are not in compliance with CEQA, and a full environmental impact assessment should be required before the Project may be lawfully approved.

a) A Categorical Exemption is Unavailable Because the Project is Not a Small Structure

The § 15303 exemption is limited to “construction ...of ...**small** facilities or structures.” The Project is very large. The Project has structures totaling over 8,500 square feet, in contrast to the current existing structure totaling just 2,847 square feet.

The size exceeds the recommendations for Floor to Lot Area Ratios (FAR) delineated in the Single-Family Residence Design Guidelines (“SFR Guidelines”). Compatibility Guideline No. 8 states that applicants should strive for a project which falls in the “less than 85% of maximum FAR” range for the project size. (SFR Guidelines, p. 21-C). Although maximum FARs are applied as guidelines rather than requirements on lots that are 15,000 square feet or larger, the SFR Guidelines have calculated recommended FARs for projects that exceed 15,000 square feet. This 31,584 square foot lot is just under $\frac{3}{4}$ acre.² According to the SFR guidelines the recommended dwelling area (85% of maximum FAR) for a $\frac{3}{4}$ acre lot is 4,127 square feet. (SFR Guidelines, p. 23-C). The Project’s total net square footage for all site structures is 5,899 square feet, exceeding the maximum recommended area by 1,772 square feet.

Apparently in order to circumvent the FAR guideline, the FAR for the Project has been calculated assuming that the single lot has been split into two lots: one measuring 15,000 square feet and one measuring 16,584 square feet. With this arbitrary lot division, the FAR of Unit 1 is calculated to be 99.9% and the FAR of Unit 2 at 34%. However, even though they are physically attached to Unit 1, the 459 square foot garage and 125 square foot storage unit have both been attributed to Unit 2. This appears to have been apportioned to ensure that the Unit 1 FAR is less than 100%. Regardless of whether the lot is split or not, or whether a garage and storage structure are located adjacent to Unit 1 and attributed to Unit 2, the maximum FAR guidelines of 85% have been exceeded, and this Project is considered large under the City’s Guidelines and criteria.

Additionally, the SFR Guidelines recommend that “careful consideration should be given to projects that propose greater than 250 square feet of [covered porches, loggias, covered decks] or when they are greater than 10% of the total net square footage of the structure.” (SFR Guidelines p. 20-C). The Project proposes 1,111 square feet of covered porches, decks and trellises, which constitute 19% of the total net square footage of the structure, and again greatly exceeds the SFR Guidelines. Lastly, to add to this large scale, the Project proposes 2,128 square feet of uncovered patios, 4,201 square feet of pervious paved surface and a pool and spa.

The large size of this Project including: 1) exceeding the recommended FAR guidelines for dwellings by 1,772 square feet; 2) exceeding the covered porches guidelines by 861 square feet; and 3) adding 6,329 square feet of additional patios and paved surfaces precludes the use of the

² The ratio is higher if the lot is smaller.

§15303 Categorical Exemption for small structures. We ask that either you require the applicant to conform with the FAR guidelines or require an environmental impact report for this large structure.

b) Unusual Circumstances Preclude the Use of a Categorical Exemption

A categorically exempt project loses its exempt status if there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. Guidelines § 15300.2 (c); *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal. App. 4th 1098, 1105. To sustain the "unusual circumstances exception", the evidence must show some feature of the project that distinguishes it from others in the exempt class. *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*, 139 Cal. App. 4th 1356, 1394 (Cal. App. 6th Dist. 2006).

The Project is "unusual" due to: 1) its large size, both in its dwelling area and outdoor paved surfaces (see above); 2) its inconsistency with the applicable zoning ordinance and General Plan (see above); 3) its adverse effect on the views and aesthetics of the area (see below); and 4) its location in a High Fire Hazard Area and lack of adequate fire access (see above).

In order to determine whether there is a reasonable possibility that the activity will have a "significant effect on the environment" the Agency should conduct an Initial Study using an environmental assessment or similar analysis.... (CEQA Guidelines §15063(a)(2)). Since the City of Santa Barbara has not adopted thresholds for its agencies to conduct consistent and efficient Initial Studies, we look to Appendix G of the CEQA guidelines to determine whether the Project will have a "significant effect" on the environment. In this case we find there are potential significant effects in the "Aesthetics" and "Hazards and Hazardous Materials" sections delineated in Appendix G. In particular, the existence of substandard road widths in a high fire hazard area jeopardizes emergency services to current and Project residents. A 20' to 32' road width is necessary to allow residents to evacuate while emergency equipment enters the area to respond to the emergency. A 14' wide road and irregular intersection geometry preclude the provision of adequate access to the site. Therefore, the §15303 Categorical Exemption should again be precluded based on the "unusual circumstances" exception and an environmental impact report should be required.

i) Pattern and Practice: Failure to Adopt Thresholds of Significance

City practice for SHO actions on PSPs typically includes a step labeled "environmental assessment." Unfortunately, there is apparently no defined procedures for conducting an environmental assessment. The SHO officer's Findings and the Staff Report's brief attempt at justification of a Categorical Exemption cannot suffice as an environmental assessment.

Further, CEQA encourages each public agency to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. (CEQA Guidelines § 15064.7). By adopting thresholds of significance, a lead agency “promotes consistency, efficiency, and predictability” in the environmental review process. (Office of Planning and Research, *Thresholds of Significance: Criteria for Defining Environmental Significance* (CEQA Technical Advice Series, 1994), p. 4)). The City of Santa Barbara to date has not adopted CEQA thresholds of significance. Rather, thresholds used for individual projects derive in part from the antiquated Master Environmental Assessment (MEA), from the CEQA Guidelines, from Staff memoranda, and other unknown sources in a capricious *ad hoc* manner. Many City environmental documents, including the instant Staff Report, fail to identify the source of the specific thresholds used for individual impact categories. This creates inconsistency and unpredictability in the City’s environmental review of each project, deprives the public of the ability to verify the source of a given threshold, and creates the potential for each environmental document to utilize the threshold that best achieves the desired outcome. This failure to adopt thresholds of significance, undermining the consistency and legitimacy of City environmental documents, constitutes a pattern and practice of violating the requirements of CEQA.

ii) Aesthetic Impacts

In the absence of the City’s adopted thresholds of significance, we look to Appendix G of the CEQA Guidelines for impact thresholds. Regarding aesthetic impacts, Appendix G (in pertinent part) recommends that the lead agency consider if the project would: “1) have a substantial adverse effect on a scenic vista, or 2) substantially degrade the existing visual character or quality of the site and its surroundings” (CEQA Guidelines, Appendix G).

Any substantial negative effect of a project on view and other features of beauty could constitute a significant environmental impact under CEQA. (*Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1604.)

“That a project affects only a few private views may be a factor in determining whether the impact is significant.” *Ocean View Estates Homeowners Association, Inc. v. Montecito Water District* (2004) 116 Cal.App. 4th 396, 402. “As on other CEQA topics, the opinions of area residents, if based on direct observation, may be relevant as to aesthetic impact and may constitute substantial evidence in support of a fair argument; no special expertise is required on this topic. (*Ocean View Estates, supra*, 116 Cal.App.4th at p. 402.)” *The Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App 4th 903, 937

The Riviera is renowned for its views of the City, the waterfront and the Ocean. Chase Palm Park offers a visual punctuation to the interface of sea and land, while sunsets and sunrises inspire on a daily basis. From High Ridge and Green Ridge Lanes, the site is visible, as it is from most of the residences on these streets.

City General Plan Visual Resources Policy 3.0 states: “New development shall not obstruct scenic view corridors, including those of the ocean and lower elevations of the City viewed

respectively from the shoreline and upper foothills, and of the upper foothills and mountains viewed respectively from the beach and lower elevations of the City.” There is no modifier “important” limiting which view corridors can be sacrificed and which saved, nor does the text of Policy 3 suggest that obstruction of some scenic view corridors is appropriate. In this case, staff has improperly inserted the qualifier “important” to viewing locations or scenic corridors. The General Plan protects scenic corridors, and the Project is located in a prominent and highly visible location on the Riviera. The Open Space Element designates the Project area as a Major Hillside with open space features and values that should be protected. Page 102. The Conservation Element notes that hillsides provide visual resources to residents, using the Riviera as an example that provides views of the ocean and mountains. Page 10. As the Constitution for all development in a community (*Leshner Communications v. City of Walnut Creek* (1990) 52 Cal. 3d 531, 540) against which all City actions must be consistent, the General Plan is missing from the Staff Report’s analysis.

Further, the visual resources goals and policies counsel the CEQA process and serve as thresholds in the absence of other objective criteria. Inconsistencies with the General Plan signal potential CEQA significant impacts, and there is no effort at reconciling these apparent inconsistencies with the CEQA analysis.

iii) Fire Hazard

Appendix G of the CEQA Guidelines also lists “Hazards and Hazardous Materials” as a potential impact that should be addressed in an agency’s Initial Study. Appendix G (in pertinent part) recommends that the lead agency consider if the project would: 1) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? or 2) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

The fire hazard present in the Project’s neighborhood is an unusual circumstance that distinguishes the Project from other small structures in the Class 3 exemption class. The Project is located along Mission Ridge Road in the “Foothill Zone” which has been designated by the Santa Barbara Wildland Fire Plan (“WF Plan,” excerpts attached as Exhibit 5) as a “High Fire Hazard Area.” (WF Plan, p. 37, Figure 19).

The WF Plan describes the Foothill Zone as follows: “The potential fire behavior in this zone is considered high to extreme depending on weather and fuel conditions. This zone is defined as areas within the City where a combination of flammable chaparral, oak forest, riparian vegetation, eucalyptus groves, and landscaped fuels intermix with residential areas to pose a significant fire threat.” (WF Plan, § 2.5.2.).

The City has designated the Foothill Zone as “high risk” as it pertains to the roads. (WF Plan, p. 41, Table 3). The main roads are a “mixture of conforming and existing non-conforming” and are “further narrowed due to vegetation encroachment.” They do not meet the Fire Department’s access standards. These conclusions are reiterated in the 2010 Engineers Report, Exhibit 4.

Additionally, the Project is located at the end of a dead-end road that is over 300 ft long. The WF Plan assigns High Ridge Road and Green Ridge Lane to an evacuation unit located to the east. Mission Ridge Road, to which they attach, is in a different evacuation unit. Exhibit 5, page 66.

And, although the Project's second dwelling unit does not require a Conditional Use Permit, the City's Zoning Ordinance has banned second dwelling units in "High Fire Hazard Areas". (SBMC 28.94.030). Thus indicating that the City has determined that additional dwelling units in High Fire Hazard Area pose a safety risk. Notably, Government Code section 815.6 provides: "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty." Adding a new residence to the end of Green Ridge Lane endangers the ability of other residents to evacuate safely in emergency conditions.

In conclusion, the Project's location in a High Fire Hazard Area differentiates it from others in the exempt class (of small structures) and poses a significant environmental effect due to its interference with emergency evacuation plans and fire access as well as significant risk of loss, injury or death involving wildland fires.

c) Location in a Particularly Sensitive Environment Precludes the Use of a Categorical Exemption

A categorically exempt project may also lose its exempt status if they are located in a particularly sensitive environment. Class 3 exemptions (including § 15303) "are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies." (CEQA Guidelines §15300.2).

This Project is located in a "High Fire Hazard Area" with inadequate fire access as determined by the City and the independent Engineer's Report. CEQA therefore requires environmental review before the Project may be approved. (CEQA Guidelines § 15300.2 (c)).

d) Cumulative Impacts Preclude the Use of a Categorical Exemption

A Categorical Exemption is not available when a project may have cumulative impacts. Guidelines § 15300.2(b). Approval of an excessive oversized set of structures, plus a second residential unit, will incite other nearby landowners to consider similar over-development of

their lots, resulting in additional traffic on narrow windy roads and the semi-rural nature of the area transitions to an urban setting.

Additionally, replacing 2,700 square feet of structure with over 10,000 square feet of new development, including a new pool and other amenities will materially increase the number of employees assisting with the maintenance and servicing of such a large property, contributing to a cumulative Project impact.

Issue # 4: Denial of the Benefits of and Interference with the Good Neighbor Process

As explained to the applicant and the SFDB, the neighbors on Green Ridge Lane are troubled by the size of the structures and site intensification with the addition of a full second house on the lot. The SFDB agreed that the initial proposal was far too large for the neighborhood and site, and some reductions were made. The neighbors remain skeptical, particularly concerning specific view corridors, including views to Chase Palm Park and the waterfront, and asked the applicant, planning staff and SFDB to install story poles to illustrate how the project might affect the views of the ocean and City. See Exhibits 1 & 2. While the SFDB did order story poles, they allowed the applicant to choose whether to install them before the instant Staff Hearing Officer (SHO) hearing or the subsequent SFDB hearing. SFDB Minutes, 11/22/10. The applicant disregarded requests from the neighborhood to install story poles. Thus the neighbors' view impact concerns have been unaddressed, leading to the Denenholtz' and others' opposition.

We ask that you continue this hearing and direct the applicant to erect full story poles per the SFDB Guidelines, 4/27/2010. "The purpose of story poles is to assist the Single Family Design Board (SFDB), staff and interested neighbors (and if proposal is appealed, the Planning Commission and/or Council) in determining consistency regarding appropriate size, bulk and scale; height; neighborhood compatibility and/or minimizing impacts on important public views." Only through the erection of story poles can the Project's view blockage be gauged, and hopefully adjusted to reduce or avoid occlusion of important views by neighbors. Staff has advised they intend to require story poles in advance of the Planning Commission hearing, which while appreciated, is too late in the process for a "good Neighbor" resolution of community concerns.

It is evident from the SFDB minutes that numerous neighbors have raised concerns over this project, as validated by the SFDB's own action directing a "substantial" reduction in the Project size. Staff is aware this was and is a controversial project. The Project has evolved to involve more significant land use policy considerations, including emergency access, survey data adequacy, General Plan and zoning ordinance consistency, etc. As such this Project exceeds the scope of Projects appropriate for the SHO's determination. Appellants asked the SHO to simply refer this project to the Planning Commission, but that request was denied.

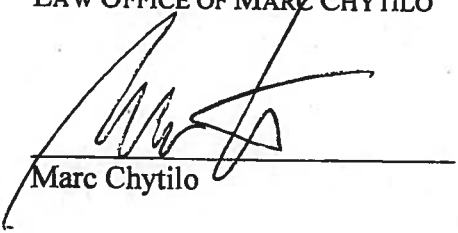
Appellants just need to know the effect of the Project on their neighborhood, their views and their safety. A critical aspect of this is story poles to show the project's effects on view corridors. Appellants were advised by planning staff that there had been considerable discussion in the Planning Department and among planning department staff regarding this project, including a consideration of the timing for story poles. Apparently the expectation that this project would be appealed to the Planning Commission was one justification for the decision to not grant our request that story poles be installed before the SHO hearing. This is, of course, a self-fulfilling prophecy as Appellants cannot be expected to waive all appellate rights before seeing the effect the Project will have on this homes. It is unfair to the public for the applicant to prevent the early disclosure of information critical to a public concern over a land use project and to force an appeal to the Planning Commission. Unfortunately, this process has been administered in such a way as to mandate this appeal for affected neighbors to be apprised of basic project information before waiving their appellate rights.

Conclusion

In conclusion, we request that you grant this appeal and deny the Performance Standard Permit for the additional dwelling and require that a full environmental review process be initiated for the remaining Project. The Staff Hearing Officer did not make sufficient findings in accord with the Zoning Ordinance and therefore the Performance Standard Permit should be denied. Additionally, the Project is not categorically exempt from CEQA because a) the project is too large to apply to the small structures exemption; b) unusual circumstances preclude the use of a categorical exemption; c) location in a particularly sensitive environment precludes the use of a categorical exemption; and d) cumulative impacts preclude the use of a categorical exemption.

Respectfully Submitted,

LAW OFFICE OF MARC CHYTILO



Marc Chytilo

Exhibits

(attached to SHO Comment letter and not repeated here, available upon request)

1. Email, Marc Chytilo to Thomas Sanborn, RE: Request for Discussion of Concerns and Story Poles, January 19, 2011

2. Letter, Marc Chytilo to Jaime Limon, Santa Barbara Community Development Department, December 28, 2010
3. City of Santa Barbara Parcel Lookup Results - Details, 8/27/2010
4. Final Engineer's Report, FY 2010-11, City of Santa Barbara Wildland Fire Suppression Assessment, May 2010, pages 1-2
5. City of Santa Barbara Fire Department Wildland Fire Plan, 1/21/2004, pages 25, 41, 64-65
6. Santa Barbara County Private Road and Driveway Standards: Development Standard # 1
7. City of Santa Barbara Fire Prevention Bureau Access and Hydrant Information, 5/17/01
8. Cova, Thomas, Public Safety in the Urban-Wildland Interface: Should Fire-Prone Communities Have a Maximum Occupancy?, Natural Hazards Review, August 2005
9. Emergency Planning in the Urban-Wildland Interface: Subdivision-Level Analysis of Wildfire Evacuations, Brian Wolshon, and Emile Marchive III, Journal of Urban Planning and Development, March 2007
10. United States Fire Administration, Technical Report Series, The East Bay Hills Fire,, Oakland-Berkley, California, FEMA, excerpts

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

March 4, 2011

VIA HAND DELIVERY

Mr. John Jostes, Vice Chair
Santa Barbara City Planning Commission
c/o Planning Division
Community Development Department
630 Garden Street
Santa Barbara, California 93101

RECEIVED
MAR 07 2011
CITY OF SANTA BARBARA
PLANNING DIVISION

RE: Additional Issues: Appeal of SHO Approval (January 26, 2011)
Application # MST2010-00186 - 1233 Mission Ridge Road
Planning Commission Hearing March 10, 2011

Vice-Chair Jostes and Members of the Planning Commission,

This office represents Judy and David Denenholz who in letter dated February 7, 2011 appealed the Staff Hearing Officer's January 26, 2011 decision issuing a Performance Standard Permit and authorizing a second dwelling unit as part of a proposed residential project located on the private Green Ridge Lane in Santa Barbara's upper Riviera neighborhood but with a street address of 1233 Mission Ridge Road ("Project").

We submit this letter to identify additional issues for the Planning Commission's consideration, along with the original issues delineated in our February 7, 2011 letter.

We respectfully request that the Planning Commission reverse the Staff Hearing Officer's decision by denying the Performance Standard Permit (PSP) for an additional dwelling unit, determining a Categorical Exemption is not appropriate and directing the preparation of a CEQA environmental review document for the remainder of the Project.

The additional issues in this appeal are as follows:

Additional Issue #1: Street Frontage

In order to obtain a PSP for an additional dwelling, the Municipal Code states that "the location of such additional dwellings shall comply with the provisions of all other applicable ordinances." SBMC § 28.93.030E. Within the E-1 zone, the zoning ordinance requires that "each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having . . . **not less than ninety feet (90') of frontage on a public street.**" SBMC § 28.15.080

LAW OFFICE OF MARC CHYTILO
P.O. Box 92233 • Santa Barbara, California 93190
Phone: (805) 682-0585 • Fax: (805) 682-2379
Email(s): airlaw5@cox.net (Marc); anacitrin@cox.net (Ana)

(emphasis added). This project proposes two single-family dwellings and therefore the zoning ordinance requires 180 feet of street frontage.

Neither the Staff Hearing Officer findings, nor the Staff Report below addressed the issue of street frontage.

IV. ZONING ORDINANCE CONSISTENCY

Standard	Requirement/ Allowance	Existing	Proposed
Setbacks			
-Front	30'	>30'	30'
-Interior	10'	>10'	10'
Building Height	30'	1 story	24'
Parking	4	2	4
Lot Area Required for Each Unit	15,000 sf	31,584 sf	No change
Open Yard	1,250 sf	>1,250 sf	>1,250 sf

The proposed structures meet all of the current zoning requirements.

It appears from the applicant's plans that the street frontage is approximately 16 feet. This clearly does not meet the current zoning requirement of 180 feet of street frontage. The Staff Hearing Officer did not make findings regarding the street frontage and the PSP should be denied because the project does not "comply with the provisions of all other applicable ordinances." SBMC § 28.93.030E.

Additional Issue # 2: Building Height

During the SHO hearing, the Assistant Planner corrected a mistake made in the Staff Report regarding the building height calculation. She reported that the architect had informed her that the building height was actually 29 feet 6 inches, not 24 feet as written in the Staff Report.

The Single Family-Residence Design Guidelines advises applicants to avoid excessive building height, which is overtly defined as 25' or more. "Homes taller than 25' tall are usually incompatible in most single family neighborhoods." SFRDG, p. 26-C, § 9.2; see also id p. 53-H, §29.2 (Hillside District projects usually have a height of 25' or less, even though the zoning ordinance allows 30'). This project, at 29 feet 6 inches, exceeds these guidelines and exceeds the height of the surrounding homes.

The added height of this project, its inconsistency with the City's guidelines and incompatibility with applicable policies intended to avoid environmental impacts preclude the use of a Categorical Exemption. Guidelines § Appendix G, § X establishes that projects which conflict

with “any applicable land use plan, policy or regulation . . . adopted for the purpose of avoiding or mitigating an environmental effect” ordinarily involve a potentially significant impact. See *The Pocket Protectors v City of Sacramento*, 124 Cal. App. 4th 903, 930. Guidelines § 15300.2(c) disallows use of a Categorical Exemption when “there is a reasonable possibility” that the project will have a significant impact due to unusual circumstances. See generally LOMC Letter, February 7, 2011, pages 11-12).

The added height also affects the unusual circumstances analysis, disallowing use of a Categorical Exemption under CEQA Guidelines § 15300.2(a). A categorically exempt project loses its exempt status if there is a reasonable possibility that the activity will have a significant effect on the environment due to its sensitive location. *Id.*; see also LOMC Letter, February 7, 2011, pages 12-15; *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal. App. 4th 1098, 1105. This project is located in a scenic area (see February 7, 2011, *supra*, pages 13-14). The 29 foot 6 inch height - in excess of the recommended height in the Single Family Residence Design Guidelines and therefore considered incompatible with the surrounding single family neighborhood - is another location-specific factor establishing the sensitivity of the project site and potential Project impacts.

Lastly, the continually changing project description has made it difficult for my client and other neighbors to participate in the good neighbor process in a meaningful way. The architectural plans have changed several times and the height dimensions have yet to be included in the plans. Additionally, the neighbors have consistently requested the installation of story poles throughout this process to no avail.

Additional Issue # 3: Drainage

This Project involves a substantial amount of paving and impermeable surfaces, and as such will generate a substantial volume of runoff. It is located in an area where downstream drainage through developed areas can be an issue, but there is no information evaluating the issue.

According to the Assistant Planner, the applicant is not required to submit drainage calculations until they submit for a Building Permit, and that they only must retain and treat a 1” in 24 hour storm event. In December 18-19, 2010 Santa Barbara’s downtown received over 5.5” of rainfall in 48 hours, and the foothill areas - including the Project - affected by orthographic rainfall enhancement - experienced considerably greater amounts of rainfall.

According to the City’s Storm Water BMP Guidance Manual (June 2008) referenced by staff, the Project is defined as a large (Tier 3) project since it involves over 4,000 square feet of impervious surfaces. *Id.*, pages 1-9 to 1-10. Tier 3 projects must submit a design review application and comply with all BMP requirements at §6.2, including consideration of 24 hour flows from 25 year storms as calculated in Appendix C. Appendix C of the BMP Guidance states the 24 hour flow from a 25 year storm is 6.71 inches. Although rainfall volume for

redevelopment projects is calculated by comparing the existing versus proposed project, staff's contention that 1" flow is all that is required has no basis in the record and no apparent basis in fact.

The drainage issues on this lot are exacerbated by the slope of the lot (approximately 9%) and the steep slopes of the surrounding lots, particularly the lot to the south. Drainage concerns are further exacerbated by the projects' large size including structures and pavement totaling over 15,000 square feet (7,170 s.f. structures, 3,480 s.f. patios, 4,201s.f. pavement, 800 s.f. pool/spa). This current project exceeds the existing development by over 12,000 square feet, creating an extraordinary volume of potential surface runoff. The BMP Guidance Manual clearly contemplates analysis of drainage issues as part of design and development review, not as an afterthought.

The City's NPDES Stormwater Management Program (SWMP), adopted in January 2009 to comply with the Clean Water Act, 33 U.S.C. § 1342. The SWMP expressly requires a staff review process that has been omitted from the instant project. Santa Barbara SWMP BMP 4.5.1, et seq., pages 76-84. The goal of the SWMP is the maximum practical reduction in discharge of pollutants. Grading should be minimized to avoid erosion. Id., page 78. The processing of the instant project has overlooked these issues and the City's obligation under the SWMP and Clean Water Act.

In a recent case before the Planning Commission (MST2004-00349, 226/232 Eucalyptus Hill Drive) involving the development of 2 lots each with large residences and additional units, the neighbors were concerned about the project's drainage. In response to the neighbors concerns, the planning staff requested that the applicant submit reports including, a Preliminary Stormwater Study, Infiltration at Proposed Retention/Detention Basin Report, and Slope Stability at Proposed Retention/Detention Basin Report.

There are substantial similarities in this case. Each involve a substantial amount of paving and impervious surfaces and large structures on sloped lots in the Riviera. Drainage generated on the upslope lots drains directly into developed areas below. Drainage problems have been observed in the developed areas below. Given these similarities, we request that you require the applicants to provide drainage reports and calculations prior to making a decision on the PSP or CEQA issues.

This combination of steep slope and increased runoff also add to the unusual circumstances of this project which disallow the application of a categorical exemption under CEQA. CEQA Guidelines § 1500.2(c). See Guidelines Appendix G, § IX, d-e (substantial increase in surface runoff or contributing to runoff that would exceed capacity of downstream stormwater drainage systems). Like many foothill neighborhoods, the Riviera has experienced drainage issues over the years, and runoff from the Project must cross over and under dozens of parcels before discharge.

Not only can the Planning Commission not approve this project in the absence of Clean Water Act compliance, but the City's SWMP and BMP Guidance necessitate a specific review process that contemplates preparation of an environmental review document.

Conclusion

In conclusion, we request that you grant this appeal based on the issues of our February 7th appeal letter and the additional issues included in this letter and deny the Performance Standard Permit for the additional dwelling and require that a full environmental review process be initiated for the remaining Project, including drainage and runoff evaluation. The Staff Hearing Officer did not make sufficient findings in accord with the Zoning Ordinance and therefore the Performance Standard Permit should be denied.

Respectfully Submitted,

LAW OFFICE OF MARC CHYTILO



Marc Chytalo

Exhibits

1. Email, Kelly Brodison to Beth Ford, 3-1-11, re: standards for storm water runoff

Tom and Barbara Sanborn
1233 Mission Ridge Road
Santa Barbara, CA 93103
805-845-8338

July 5, 2011

City of Santa Barbara City Council
735 Anacapa St.
Santa Barbara, CA 93101

RE: 1233 Mission Ridge Road

The problem with communication is the illusion that it has occurred.
George Bernard Shaw

Mayor Schneider and Members of the City Council:

Please allow the following to summarize the principal events over the past year concerning the above referenced property.

Existing Site

The property is a gently sloping parcel, open to the south and accessed off the end of Green Ridge Lane. Three structures are currently sited on the property; a two bedroom two bath residence originally constructed in the late 1920s as an accessory structure for a prior estate, a second two bedroom two bath accessory structure permitted and constructed in the late 1940s and a permitted two car detached garage. The secondary structure and garage were constructed within the current side yard setbacks and are considered non-conforming. Two mature oaks are located on the easterly third of the property.

Project Design

The current approved design proposes to remove the three existing structures and construct a new three bedroom, three and a half bath primary residence with attached garages (Residential Unit 1) and a second one bedroom two bath guest house referenced as Residential Unit 2. The primary residence is located in the center of the property along an east-west axis. Its design places a two story element adjacent to the mature oaks to the east and steps progressively down in height to the west in order to open up a view corridor. The current guest house site has been relocated from the southwesterly edge of the property to an area just north of the mature oaks. Both structures are organized around a circular motor court which is visually buffered by an arched entry portal aligned with Green Ridge Lane. The portal is set 30 feet back from the property line and provides a sense of transition from public to private access while providing for a terminus at the end of the lane.

Design Review and Approvals

Five design review hearings on the project were held by Single Family Design Board, one Performance Standard hearing was held by the Staff Hearing Officer and one appeal of the Staff Hearing Officer's approval was heard by the Planning Commission.

First SFDB Hearing- July 19, 2010

The initial plan proposed a larger 4 bedroom 3 ½ bath primary residence. The SFDB supported the overall architectural design but suggested that the applicant study reducing the size, bulk and scale of the primary residence. The Performance Standard was determined to be appropriate due to the existing guest house. The front entry portal was strongly supported. A motion to approve these findings was made and passed unanimously.

Second SFDB Hearing- August 30, 2010

A revised plan proposed reducing the square footage of the primary residence by 176 sf, reducing the ridge heights 6" to 15" and revising the westerly roofline to a hip roof. The house was re-sited to the north and east. The SFDB requested that we study further the potential of reducing the square footage.

Third SFDB Hearing- November 22, 2010

A new revised plan was submitted proposing to reduce the original square footage of the primary residence by 1614 sf, along with an additional 65 sf reduction from the garages. The house was reduced from four to three bedrooms. The two secondary bedrooms were redesigned as split levels in order to drop the lower bedroom finished floor to grade and reduce the upper bedroom ridgeline to the height of the adjacent single story living room roofline. The master bedroom view deck and kitchen loggia were eliminated and the living room loggia was reduced. The exterior courtyard stairway and balcony overlook were eliminated, along with the upper gallery and breakfast room. The result was a significant reduction in the mass, bulk and scale of the house and an expansion of the westerly view corridor. The reduced scale compressed the building footprint to the south and west as well as adjacent to the existing oaks. The Board complimented the quality of the architecture and expressed their appreciation for the revisions. They noted that the quality and style of the architecture were well integrated with the lot and neighborhood and expressed that they thought the entry portal was well executed. The Board provided the option of either returning to the Full Board after standard story poles were installed or proceed to the Staff Hearing Officer prior to returning to the Full Board. A motion of support for these findings was made and passed unanimously.

Staff Hearing Officer- January 26, 2011

Chapter 28.93 of the Municipal Code provides the opportunity for additional dwelling units on single family lots through the approval of a Performance Standard Permit (PSP). The criteria for granting a PSP require that there be adequate lot area, egress and ingress and the location of the additional dwelling complies with all applicable ordinances. The subject property is zoned E-1 which requires a minimum lot area of 15,000 sf per unit with an average slope of

under 10 %. The existing lot square footage of 31,584 sf provides adequate lot area for the two residences. Access to the lot and ingress/egress to each unit is provided by Green Ridge Lane. The location of both proposed residential units conforms to the requirements of the Zoning Ordinance. Jim Austin, Fire Inspector III/ Investigator testified at the hearing that access to the site met the Department's requirements and that the proposed design would bring all structures into conformance with current codes and standards and improve the Department's ability to respond to a fire or other emergency. The Staff Hearing Officer approved the Performance Standard Permit subject to three conditions. Those conditions require 1) that the two existing oaks be preserved, protected and maintained, 2) that construction vehicles/equipment/materials and staging be provided for on-site unless specifically permitted by the Transportation Manager with a Public Works permit, and 3) parking for construction workers be provided on-site or off-site subject to the approval of the Transportation Manager.

Planning Commission Appeal- March 10, 2011

The Planning Commission heard an appeal of the Staff Hearing Officer's approval of the PSP filed by David and Judy Denenholz of 717 S. Madison Ave., Pasadena CA. The Denenholz also own a home at 1225 Mission Ridge Road and expressed their concern that the conditions of the PSP had not been met. Paul Zink of the SFDB spoke in support of the PSP. After due consideration, a motion to deny the appeal and uphold the decision of the Staff Hearing Officer was made and confirmed by the Planning Commission unanimously.

Fourth Single Family Design Board Hearing- March 28, 2011

Prior to the fourth SFDB hearing, standard story poles were erected on the site in conformance with the approved story pole plan. Following an on-site review of the story poles, the Board expressed their satisfaction with the results but asked the applicants whether any further reductions in the height of the structures would be possible. The Board also asked whether the principal residence could be shifted to the east without affecting the privacy of the neighbors to the south and whether the bulk of the entry portal could be further reduced. The applicants agreed to study these issues further.

Fifth Single Family Design Board Hearing- April 25, 2011

A new revised plan was submitted to the SFDB, reducing the ridgelines of the principal residence by 6" to 21". The ridgelines of the guest house were also reduced by 6" to 24". The bulk of the entry portal and trash enclosure were reduced by an additional 24". The adjacent neighbors to the south have consistently expressed a concern for maintaining their existing privacy and a conscious effort was made in the design and placement of the new structures to meet those expectations. After further study, it was determined that the privacy of these neighbors would be negatively impacted by shifting the house further to the east while providing little to no benefit to any other neighbors. The Board considered these changes and expressed their appreciation for the changes and for the integrity and beauty of the design. The Board voted to approve the Preliminary Design unanimously.

Efforts to Address the Current Appeal

Well before beginning the public review, we began walking our community and meeting with our neighbors to discuss our plans for a new home. During this period, we gathered numerous signatures in support of the project and developed a deeper appreciation for the qualities that drew us to the Riviera in the first place. Over the past year, since beginning the approval process, we have made a sincere effort to work with our neighbors as well as the Riviera Association and the City's staff and Boards in the hope of creating a consensus of support for our new home. I regret that we have not been entirely successful.

Our neighbors, the Denenholz have elected to appeal our current approvals, first to the Planning Commission and now to the Council. In the hope of resolving our differences prior to burdening the Council with our problems, we asked the Denenholz to identify their specific concerns and in late May, we received a letter setting forth their areas of concern. Since that time we have exchanged our thoughts and ideas on how these issues could best be resolved but to date we have regrettably not reached a resolution.

Many of the issues that have been raised, such as the hours of construction, inspections, notifications, parking, staging, dust and noise controls are addressed by the existing codes and regulations of the City. If the City fails to inspect or to require compliance with the codes, they certainly have the right to bring this to the attention of the City Council or the City Attorney. To the extent that there are applicable building or planning regulations, we believe it would only cause confusion to enter into a private construction management agreement. We fully intend to keep the Denenholz and all other interested neighbors advised of all major construction phases throughout the building process.

The Denenholz have also expressed concerns regarding the location of our house, its height, landscaping, colors and massing. These issues have been addressed on numerous occasions at every level of the City and have resulted in the unanimous support of all of the City's Boards and Commissions that have considered the project. Throughout this process, we have made numerous changes and redesigns which have resulted in a softening of its appearance and a greater conformity with the neighborhood. We now have a project which is significantly different from the concept that we started with but one which we believe produces the most good for the most people. We are extraordinarily proud of this final design.

In evaluating the appropriateness of this current appeal, we would ask the Council to consider the photos of the story poles as viewed from the appellant's property. These particular photos were taken by Paul Zink, Chairperson of the SFDB at the time our project was being considered. They were taken to illustrate the actual impacts of our project from the perspective of the Denenholz home and I believe they tell a positive story. We have also included a photo rendering prepared by DesignArc of how our home will actually appear from the vantage point of the Denenholz upper corner bedroom. It should be pointed out that these photos and renderings were taken prior to the last design amendment which lowered all of the ridgelines by an additional 6" to 24".

We greatly appreciate the help and guidance of the City's staff and Boards, the Riviera Association and our neighbors throughout this process. We look forward to the day when we can welcome you all to our new home.

Sincerely,

Tom and Barbara Sanborn

Attachments:

Denenholz June 30, 2010 Letter

Photo- View From Denenholz Residence First Floor Living Room Deck

Photo- View From Denenholz Residence First Floor Covered Corner Deck

Photo- View From Denenholz Residence Second Floor Corner Bedroom Balcony

Photo- View From 1231 Mission Ridge Road Residence Rear Deck

Photo- View From 1220 High Ridge Road taken from Upper Driveway

Photo- Computer Model View From Denenholz Upper Bedroom Balcony

Judy and David Denenholz
717 South Madison Avenue
Pasadena, CA 91106
626-233-4212
Fax: 626-796-9318

By Email

June 30, 2011

Thomas and Barbara Sanborn
1233 Mission Ridge Road
Santa Barbara, CA 93103

Dear Tom and Barbara,

We too are glad we had the opportunity to get together on Memorial Day. It was great to meet and review our concerns. We appreciate your letter dated June 2 and your understanding of our issues. We are hopeful that we can reach a mutually acceptable understanding between us and put that into a written agreement, which would ideally be completed in advance of the scheduled July 19 City Council hearing on your project. Assuming we reach agreement, we understand that we can use the appeal hearing to simply memorialize our consent to your project.

We will respond to your June 2 letter containing your thoughts on how to address the issues contained in Mr. Chytilo's letter.

1. Monitoring of construction for conformance with approved plans.

The Building Department is responsible for ensuring conformance with the approved plans. Non-conformance can result in penalties, removal and replacement of work or red-tagging of the entire project. It is my understanding that the City has a reputation for aggressively pursuing conformance with codes and plans. Nonetheless, we would be happy to have you review our progress as the project proceeds.

We have been told that the City inspection team is not as vigilant as it has been in the past, and that variances of 6-12" in building heights have been overlooked and even knowingly tolerated. For us, the height of the building is a critical dimension, and if the roofline is even

6" higher than shown on plans, we lose that much more of our view of the ocean. You worked hard to reduce the height by 6" and more, and we simply want to be able to assure ourselves (and you) that the agreed-upon maximum height won't be exceeded.

We believe it would be appropriate to have a qualified non-city building inspector review the progress, as you indicate, and confirm the footprint, floor elevation and maximum height. We have identified a building consultant that is so qualified and familiar with this type of review. We will of course bear all of the expense for the inspector and indemnify you and your contractors for any liability associated with the inspections. We anticipate the confirmation will require just several visits at specific moments - such as when the foundation is poured, the floor elevation established, and when the roof is framed. And we would be pleased to meet with you informally to review your progress over a glass of wine. We (and probably you also) will appreciate having the assurance along the way that there are no problems.

2. Responsible individuals to address neighborhood concerns.

Ultimately, we are the ones responsible for the project and I encourage all of our neighbors to call us directly at anytime if there is an issue with the project. Once we have a general contractor and project supervisor, I will provide you with their contact information as well.

We appreciate your understanding the importance of a 24/7 contact person to respond to issues.

3. Hours of construction.

The Building Department will limit construction hours as specified in the City's Municipal Code. If you or any of our immediate neighbors have a special event which would be impacted by our construction activities, please notify us and we will do our best to limit those activities during that period. We will do our best at all times to minimize disturbances caused by the construction of our home. It has been my experience that minimizing the term of construction is the most effective means of reducing its overall impact. We of course share your desire to complete our home in as short a period as possible.

Our request was to have a comprehensive construction management program addressing your issues # 2--9. We did not, in our letter, state our desire that you complete your construction as quickly as possible - that was something you mentioned in your response. Residents in Santa Barbara and elsewhere are aware that it is a common practice

for some developers to ask dispensation from neighbors for extra noise, hours of impacts, nuisance and inconvenience under the guise of "finishing more quickly." Should you request that along the way, we will certainly consider it, but it is our desire at this point to state clearly the hours of construction and all other parameters in a written construction management program, and that your contractor have a clear and unambiguous understanding of expectations in that regard.

4.Parking.

The Staff Hearing Officer placed the following condition on the approved plans:

"C. During construction, free parking spaces for construction workers shall be provided on-site and off-site in a location subject to approval of the Transportation Manager."

5.Staging on and off site.

The Staff Hearing Officer placed the following condition on the approved plans:

"B. Construction vehicles/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way or Greenridge Lane, unless specifically permitted by the Transportation Manager with a Public Works permit."

6.Dust control.

The Building Department will require that we meet all Best Management Practices applicable to our project. These will include detailed dust control measures.

7.Traffic control.

At this time, we do not envision any off-site work that would necessitate a road closure. If any off-site work is required, we will observe all conditions for traffic control required by the Public Works permit.

As some of the most affected parties, we and probably many of the residents of Green Ridge would like to know how you intend to comply with issues 4-7 in advance, and to offer our input on your proposed solutions.

8.Notice of pending construction activities.

We will notify you when we are aware of pending phases of construction.

For the purposes of this discussion, a phase of construction might be something like "foundations" when concrete would be arriving and forms constructed or "framing," when lumber would be delivered and walls erected. Often, these phases overlap and there is not a distinct demarcation. If we are able to produce a reliable work schedule, we will provide you with a copy.

We will appreciate as much advance notice of major construction activities, including "foundations" and "framing," and also including "grading and excavation" "stucco application" and similar noisy activities or those that involve large construction equipment. We understand construction management must be fluid to address changing conditions, but would like to know what your general schedule is and be updated as specific activities that may cause particularly significant impacts to the neighborhood are planned.

9. Prohibit use of specific driveways.

I recognize that this kind of thing can get out of hand. We should be able to accommodate all the maneuvering of construction traffic on-site. As we discussed, we cannot assure you that it still won't happen on occasion. To help avoid the use of your driveway by vehicles during construction, I would propose that we add specific language to the construction documents prohibiting its use and install a small sign at the base of your drive stating "Private Driveway, No Turn Around" or as you might direct.

We would support including these terms into the terms of the permits for reproduction onto the plans. It could also be addressed through the written construction management plan, which could then be reviewed and implemented by your general contractor.

10. Notice of pending hearings and administration requests pertaining to the project.

Subsequent to receiving our final approvals and permits, should additional hearings or administration requests be required, we will notify you of their schedule and purpose. I do not anticipate that there would be any further such hearings at that point.

Great. We would expect this includes administrative requests, such as a substantial conformity determination or minor permit modification that might not need a hearing or noticing.

11. Notice of proposed changes to design, siting, or other external changes to approved project.

To the degree that this notice represents a more substantive change than those contemplated in Item 10 above, we will notify you as soon as we are aware of the nature and purpose of such changes as well as the hearing date. Again, we do not contemplate the need for any such changes.

Great, including our prior comment about modifications and actions that don't entail a hearing.

12.Exterior color palette and roof tiles.

A formal submittal will be made to the SFDB of the color palette and materials proposed for our home. I will notify when that hearing is scheduled. To give you an idea of our thoughts on an appropriate color scheme, I would direct you to the Biltmore. Like a lot of things, I think they get it pretty close to right.

As we have discussed, we share your appreciation for the Biltmore property. We want to avoid bright colors and stark contrasts that can cause the structures to pop out visually. We note that the Biltmore is in a more lush coastal setting where wall and roof colors are tempered by adjacent and overhanging vegetation, while your home must maintain fuel modification zones and thus involves considerably greater expanses of exposed walls. We of course will look over your roof for our views of the Pacific.

13.Final landscape plans.

A Final Landscape Plan will be submitted to the SFDB. This plan will be based on the approved Preliminary Landscape Plan and will include detailed irrigation and drainage plans. We will notify you when that hearing is scheduled.

Our principal interest is in the perimeter and tree elements to address screening, views and privacy. We will appreciate having the opportunity to work with you before landscaping plans are submitted for approval and your commitment to try to reach consensus with your neighbors on perimeter landscaping and trees to address reasonable concerns over privacy, screening and views.

14.Maintain Green Ridge Lane.

I agree entirely that we should be responsible for any damage or deterioration to Green Ridge Lane caused by our construction activity. We will send a letter to all of the property owners who currently share

responsibility for the right of way maintenance (six properties including ourselves) that we intend to have a survey of the road's current condition conducted by a reputable paving contractor prior to the start of construction and will commit to restoring it to like or better condition upon completion. If needed, we will make temporary repairs during construction. As we discussed, I will try to get an understanding from the paving contractor concerning what issues might improve the right-of-way for its long term maintenance and appearance and relay that on to the Green Ridge residences.

We appreciate your commitment to restore Green Ridge Road. It is not clear to us what you intend regarding seeking an "understanding" from a paving contractor pertaining to "long term maintenance and appearance," and suggest that Green Ridge Road's appearance, maintenance and management is a conversation that the entire neighborhood should be engaged in, independent from the impacts of your development.

15. Move house 3' to 5' to the east.

Prior to our last SFDB hearing, we looked carefully at the possibilities of re-siting the home to the east. While it appeared that this change would have little benefit for the properties above us, it was felt that it would have a significant negative impact on the privacy of our neighbors to the south. The SFDB considered these changes and elected to approve the design as currently sited.

We are aware that you have elected to elevate the concerns of one family below you over the concerns of the several families located above you, including us. We are having a hard time not being at least somewhat put off by your conclusion of "little benefit" from such an action, when we think it could have significant benefits. We were provided a copy of a letter from your attorney to ours inviting him to the Bay Area to view your home there and talk with your neighbors. Mr. Varni explained that you are loved in your Bay Area neighborhood because your home "does not interfere with the view of the people across the street." It's hard to forget your telling the SFDB that you could not reduce the floor height further, since you want to create your ocean views, thereby interfering with our existing views of the ocean. We don't see your behavior here in Santa Barbara to be "particularly" consistent with the "we respect the concerns of our neighbors" philosophy your attorney espouses for you in the Bay Area. We are resigned to the loss of some of our incredible ocean view as a result of your development. We ask that you meet us half way and do everything possible to reduce the impact, and to value our concerns

equally to those of your downhill neighbors. We would like, some ten years from now, to be able to offer the same recommendations that your Bay Area neighbors do now. Please offer us the same courtesy so we can do so.

16.Lower house 6" to 12".

Prior to our last SFDB hearing, we were asked to study whether the height of the house could be further reduced. We returned with a plan that reduced the entire structure from 6" to 21" overall. These changes are now part of the current approved plans. The composite rendering we looked at while we were at your home was based on the prior elevations and does not reflect these changes.

See previous response. We did prepare and present an updated visual simulation to the SFDB reflecting your modified project and demonstrating the loss of views of Chase Palm Park and the City's waterfront.

17.Reduction of bulk.

At the previous SFDB hearing, we were also asked to study whether the appearance of the entry portal could be reduced. We returned with a plan that reduced both the mass of the portal's surround as well as its depth. The net effect is a visual reduction of its perceived bulk. These changes are also now a part of the approved plans. The rendering does not reflect these changes but probably would not be noticeable from the vantage point of your home.

See previous two responses.

18.Size of trash enclosure.

Within the northerly leg of the entry portal is an area reserved for trash cans. They will be under the tile covered roof and screened from view by the adjacent hedges. I am confident that you will not be able to see this area from your home. I am concerned that reducing the leg of the portal further would give the structure a spindly appearance.

To us, this seems like adding unnecessary bulk at the point closest to our home. It is hard to imagine how such a massive and bulky complex could be characterized as "spindly." Our preference would be to balance the remainder of the complex and structures with the "spindly" trash enclosure. Architecture is an expression of taste and preferences, and as the SFDB made clear, they will only go so far. If the trash enclosure cannot be reduced, the need for cooperation and

coordination between us to reach consensus on screening in the perimeter landscaping is underscored.

19. Size of motor court.

Prior to beginning the design, we consulted with a traffic engineer on the correct size for a residential motor court. His answer was, without hesitation, a 52 foot minimum diameter. He told us that anything less would not work. Since then, we have mocked up various diameter motor courts with chalk on an open parking lot and tried to negotiate them with various vehicles. We found that we could make it work with a 50-foot diameter, which is what the current design is based on. The center of the motor court will contain a 14 foot wide landscaped area. The motor court will be paved with a permeable Cherokee Creek Tumbled Flagstone paver over a 6" road base with D.G. grout giving it a Santa Barbara sandstone appearance. I don't believe you will be able to see any of the motor court from your home.

A motor court, common in motels and hotels, is uncommon to unheard of at most residences in Santa Barbara. Again, while it is your design preference, it has community consequences. Have you considered if the size can be reduced if you used a hammerhead at one end, a few straight-in parking spaces, or allowed for a three-point turnaround? We will accept your statement that the surface of the motor court will be completely un-viewable from any point of our home if it is a guarantee, but what should be the consequences if you are incorrect and we see it plainly? To now, the City has allowed the motor court, and our request is that you continue to try to reduce its size. If you are unable and cannot forgo this architectural statement, we will likely just live with it, but expect that you will more fully address some have the other design and structural issues we raise above.

We appreciate your initial response to our concerns, and believe that we have gotten more than half way in addressing our concerns. As we discussed a few weeks ago, the success of us becoming the good neighbors that we each want to be to one another, will be largely dependant on the mutual extension of both good faith and trust. We are committed to working with you towards that end. As we've said earlier, we sincerely hope that we can get a written agreement and ask that you give additional thought to addressing our outstanding issues.

Sincerely,

Judy and Dave Denenholz

SINGLE FAMILY DESIGN BOARD
CASE SUMMARY

1233 MISSION RIDGE RD

MST2010-00186

R- 2 SFR

Page: 1

Project Description:

This is a revised project description. Proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet and construct two new single-family residences on a 31,584 square foot lot in the Hillside Design District. The proposal includes Unit 1 as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. Unit 2 is proposed as a 920 square foot one-story additional dwelling unit with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house. The proposed total of 4,395 square feet for Unit 1 is 99.9% of the maximum guideline floor to lot area ratio. The proposed total of 1,504 square feet for Unit 2 is 34% of the maximum guideline floor to lot area ratio. A total of 308 cubic yards of onsite grading is proposed. The project received Planning Commission approval on 3/10/2011 (Resolution No. 005-11) for a Performance Standard Permit to allow an additional dwelling unit per SBMC 28.93.030.E.

Activities:

4/25/2011 ***SFDB-Project Design Approval***

4/25/2011 ***SFDB-Project Design Hearing***

(Project Design Approval is requested. Project requires compliance with Staff Hearing Officer Resolution No. 002-11 and Planning Commission Resolution No. 005-11. Project was last reviewed by SFDB on March 28, 2011.)

(3:32)

Present: Mark Shields, Architect; Tom Sanborn, Owner; and Kelly Brodison, Assistant Planner.

Public comment opened at 3:50 p.m.

The following public comment spoke in opposition of the proposed project:

- 1) Judy Denenholtz spoke with concerns regarding the FAR, high fire area, potential traffic issues, and density.*
- 2) Keith Rivera, representing adjacent neighbors Dan and Diane Gainey, spoke with concerns regarding second floor privacy issues, and a request for landscape plan language for privacy screening.*

Activities:

- 3) Beverly Trial (submitted a prior email in opposition and photos of neighboring homes during meeting) spoke with concerns regarding the large size of the proposed project in comparison to neighboring homes.
- 4) Edward Easton (submitted letter at meeting) spoke with concerns regarding the large size of the proposed project, window locations, and the tower elements on the north and west side.
- 5) Marc Chytilo, (representing the Dave and Judy Denenholtz/submitted letter/photos at meeting) spoke with concerns regarding the large size, bulk and mass of the proposed project, neighborhood compatibility, and obstruction of public ocean views.

Emails of opposition were acknowledged from Beverly and Alain Trial.

An email of neither support nor opposition from James Knight of The Rivera Association was acknowledged by the Board.

Letters of support were acknowledged by the Board from: Sarah Stewart, Graham Phillips, Dorothy Padilla, Michael R. and Kathleen Cooper, Laurel Gilbert Phillips, Esq., Glendon Dyruff, and Mary Lou Fahy.

Public comment closed at 4:05 p.m.

Motion: Project Design Approval with the finding that the Neighborhood Preservation Ordinance criteria have been met as stated in Subsection 22.69.050 of the City of Santa Barbara Municipal Code and continued indefinitely to Full Board with the following comments:

- 1) *The Board found the proposed project's current mass, bulk, and scale, compatibility with the Riviera neighborhood, and appreciates the reductions of the design by the applicant over the course of the previous five Design Review meetings.*
 - 2) *The consistency of appearance, detailing of the design, and quality of the architecture and materials are acceptable.*
 - 3) *The layout of the house on the site and landscaping are acceptable. The Board appreciates the sensitive design to maintain the existing oak trees.*
 - 4) *The Board finds that the proposed project will not result in any negative impacts to public views.*
- Action: Zimmerman/Woolery, 6/0/1. Motion carried. (Bernstein abstained).*

The ten-day appeal period was announced.

4/19/2011

SFDB-Resubmittal Received

Three sets for project design review.

3/28/2011

SFDB-Project Design Hearing

(Project Design Approval is requested. Project requires compliance with Staff Hearing Officer Resolution No. 002-11 and Planning Commission Resolution No. 005-11. Project was last reviewed by SFDB on November 22, 2010.)

(4:28)

Activities:

Present: Mark Shields, Tom and Barbara Sanborn, Owners.

Public comment opened at 4:39 p.m.

The Laurel Phillips (submitted prior letter) spoke in support of the proposed project.

Letters in support from Tom and Barbara Sanborn (owners), Laurel Gilbert Phillips, Sarah Stewart, Mary Lou Fahy, Sara Lytle and Fred Davis III, Dorothy Padilla, and Glendon Dyruff were acknowledged.

The following public comment spoke in opposition of the proposed project:

- 1) Judy Denenholz.*
- 2) Keith Rivera.*
- 3) Attorney Marc Chytilo, (submitted letters to Board).*
- 4) Beth Ford (submitted letters to Board).*
- 5) Katie O'Reilly-Rogers.*
- 6) Beverly Johnson Trial.*

Letters expressing concerns from Attorney Marc Chytilo (for Charles & Joyce Wright and Dave & Judy Denenholz), Edward Easton, Alain Trial, Cathie McCammon for Allied Neighborhoods Assoc., and Paula Westbury were acknowledged.

A letter from James Knight, President of the Rivera Association, with issues that were addressed and of which the Association states they have no opinion on the project, was acknowledged.

Public comment closed at 4:59 p.m.

Straw vote: How many of the Board would approve the current existing plans as presented for Project Design Approval? Vote: 3/3.

Motion: Continued indefinitely to Full Board with comments:

- 1) Provide additional information through the use of sections through the property/building utilizing existing topography, and noting pitches, elevations, and all plate and ridge heights on the plans.*
- 2) The Board appreciates the entry portal design; however, suggests the applicant to study reducing the thickness of the entry portal to reduce its the bulk.*
- 3) Study the height of the secondary building and reduce the ridge heights where possible.*
- 4) Study shifting the main house to the east and north without affecting the health of the existing oak trees, if possible.*
- 5) There is sufficient photo documentation to allow the removal of the story poles.*
- 6) Look for all opportunities to reduce height of the main building.*
- 7) Clearly show reductions by providing working drawing sections to accurately depict the elevations and any associated reductions.*
- 8) The Board finds the overall project to be acceptable in architecture and design style and looks for additional information and study to refine the project.*

Action: Woolery/Miller, 6/0/0. Motion carried. (Bernstein absent).

Activities:**3/28/2011 SFDB-Resubmittal Received**

resubmittal of landscape plan for review on 3-28-11

2/15/2011 SFDB-Correspondence/Contact

SFDB Resubmittal rec'd 2/9/2011, has been halted from proceeding to SFDB until after the SHO Appeal hearing at Planning Commission on 3/10/2011. Item is tentatively scheduled for SFDB on 3/28/2011, pending the outcome of the PC hearing on 3/10/2011. Confirmed direction with Kelly Brodison, case planner, on 2/15/2011 (8:25 a.m.). Left message for Lloyd Malear of Design Arc. 2/15/2011 (8:30 a.m.). Plans placed in the pick up box to return to applicant.

2/9/2011 SFDB-Resubmittal Received

Seven reduced and one full sized sets of plans for the Planning Commission hearing for appeal of SHO approval.

2/9/2011 SFDB-Resubmittal Received

Three sets received for SFDB Full Board review on 3/14/11.

11/22/2010 SFDB-Concept Review (Cont.)

(Third concept review. Comments only; project requires Environmental Assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Actual time: 3:31

Present: Marc Shields, Architect; Tom and Barbara Sanborn, Owners.

Public comment opened at 3:48 p.m.

Marc Chytilo, opposed: requested story poles; had issues with mass, bulk, and scale.

Judy Denenholz, opposed: requested applicants follow the good neighbor workshop process; requested story poles.

Keith Rivera, representing neighbors to immediate south: addressed privacy impacts, requested story poles demonstrating window toward neighbors open space.

Beverly Johnson Trial, opposed: requested a new survey.

Beverly Johnson Trial for Allan Trial: opposed: addressed floor area ratio concerns.

Sara Lytle, in favor of the project; nice addition to the Riviera neighborhood.

Larame Greene, in support of the project; massing is appropriate.

A letter of concern from Paula Westbury was acknowledged.

Public comment was closed at 4:02 p.m.

Motion: Continued indefinitely Staff Hearing Officer with the following comments:

1) The Board has given the applicant the option to either return to the Full Board after Story poles are

Activities:

installed, or proceed to the Staff Hearing Officer and then return to the Full Board. The Board requests story poles to be installed prior to returning to the full board.

2) The Board compliments and appreciates the applicant's reduction in square footage and the quality of architecture.

3) The quality and style of architecture are well integrated with lot; the alcove/portal entry to the garage is well executed.

Action: Miller/Woolery, 7/0/0. Motion carried.

11/15/2010**SFDB-Resubmittal Received**

concept continued.

8/30/2010**SFDB-Concept Review (Cont.)**

(Second concept review. Comments only; project requires Environmental Assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Actual time: 6:02

Present: Mark Shields, Architect; Bruce Bartlett, Designer; Mr. and Mrs. Sanborn, Owners.

Ms. Bedard, Planning Technician provided staff comments and remained available to respond to questions from the Board. The applicant submitted four public comment letters in support of the project.

Public comment was opened at 6:22 p.m.

Greg Baranoff: addressed potential second unit, concerned about square footage.

Marc Chytilo, representing Judy Denenholtz: concerned about project size and west wall massing.

Beverly Johnson Trial: concerned about kitchen, lack of screen trees, and loss of views.

Alain Trial: concerned that architecture is contrary to guidelines.

Dan Gainey, neighbor: concerned about loss of privacy.

Keith Rivera: representing Mr. and Mrs. Gainey: concerned about loss of privacy, requested 3-D model.

Katie O'Rielly Rogers: representing Mr. and Mrs. Gainey: concerned about privacy issues, project size.

A letter in opposition from Paula Westbury was acknowledged.

Public comment was closed at 6:43 p.m.

Motion: Continued indefinitely to the Full Board with the comment to significantly reduce the square footage.

Action: Bernstein/Miller, 6/0/1. Motion carried. (Carroll abstained.)

8/23/2010**SFDB-Resubmittal Received**

3 sets of plans + resubmittal forjrm

Activities:**7/19/2010****SFDB-Concept Review (New) - PH**

(Comments only; project requires environmental assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Actual time: 6:16

Present: Bruce Bartlet, Architect, DesignARC; Mark Shields, Designer; Tom and Barbara Sandborn, Owners.

Public comment was opened at 6:34 p.m.

Judy Denenholz: opposed to the large size; concerned about fire truck access and neighborhood incompatibility.

Dan Gainey, neighbor: opposed to the loss of privacy.

Greg Baranoff: concerned about loss of views and the large size.

Beverly Johnson Trial: opposed to the large house on a small lot; read a letter from Jim Knight who urged the Board to adhere to the NPO, SFR and Hillside guidelines.

Public comment was closed at 6:52 p.m.

Seven letter expressing opposition or concerns from David and Judy Denenholz, Edith Baranoff, Alain Trial, Jim Knight, Charles Joyce Wright, Frank and Gina Meyers, and Paula Westbury were acknowledged. A letter in support containing 23 signatures was acknowledged. Four additional letters in support from Mary Lou Fahy, Bill Freudenberg & Sarah Stewart, Laurel G. Phillips, and Glen & Dorothy Dyruff were submitted by the applicant.

Motion: Continued four weeks to the Full Board with the following comments:

- 1) Study reducing the square footage as well as size, bulk, and scale.*
- 2) Study lowering the ridge height.*
- 3) Provide supporting information about impacts of the house on the neighborhood. Consider installing story poles. Provide a site section through the property.*
- 4) Provide an arborist report for the existing Oak trees near the house.*
- 5) Provide additional information for landscaping along western property line.*
- 6) The performance standard permit is supportable because there is an existing guest house.*
- 7) The front entry portal design is appreciated.*

Action: Woolery/Bernstein, 7/0/0. Motion carried.

7/6/2010**SFDB-Concept Review (New) - PH**

(Comments only; project requires environmental assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Postponed two weeks at the applicant's request.



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: March 3, 2011
AGENDA DATE: March 10, 2011
PROJECT ADDRESS: 1233 Mission Ridge Road (MST2010-00186)
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner *DYK*
Kelly Brodison, Assistant Planner *KLB*

I. PROJECT DESCRIPTION

The project consists of a proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet, and construct a new single-family residence and an Additional Dwelling Unit on a 31,584 square foot lot in the Hillside Design District. The new single family dwelling is proposed as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. The Additional Dwelling Unit is proposed as a 920 square foot one-story additional dwelling unit, with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house.

This is an appeal of a Staff Hearing Officer approval of the requested Performance Standard Permit on January 26, 2011. The appellant asks the Planning Commission to deny the project (refer to Exhibit A – Appellant's Letter).

II. REQUIRED APPLICATIONS

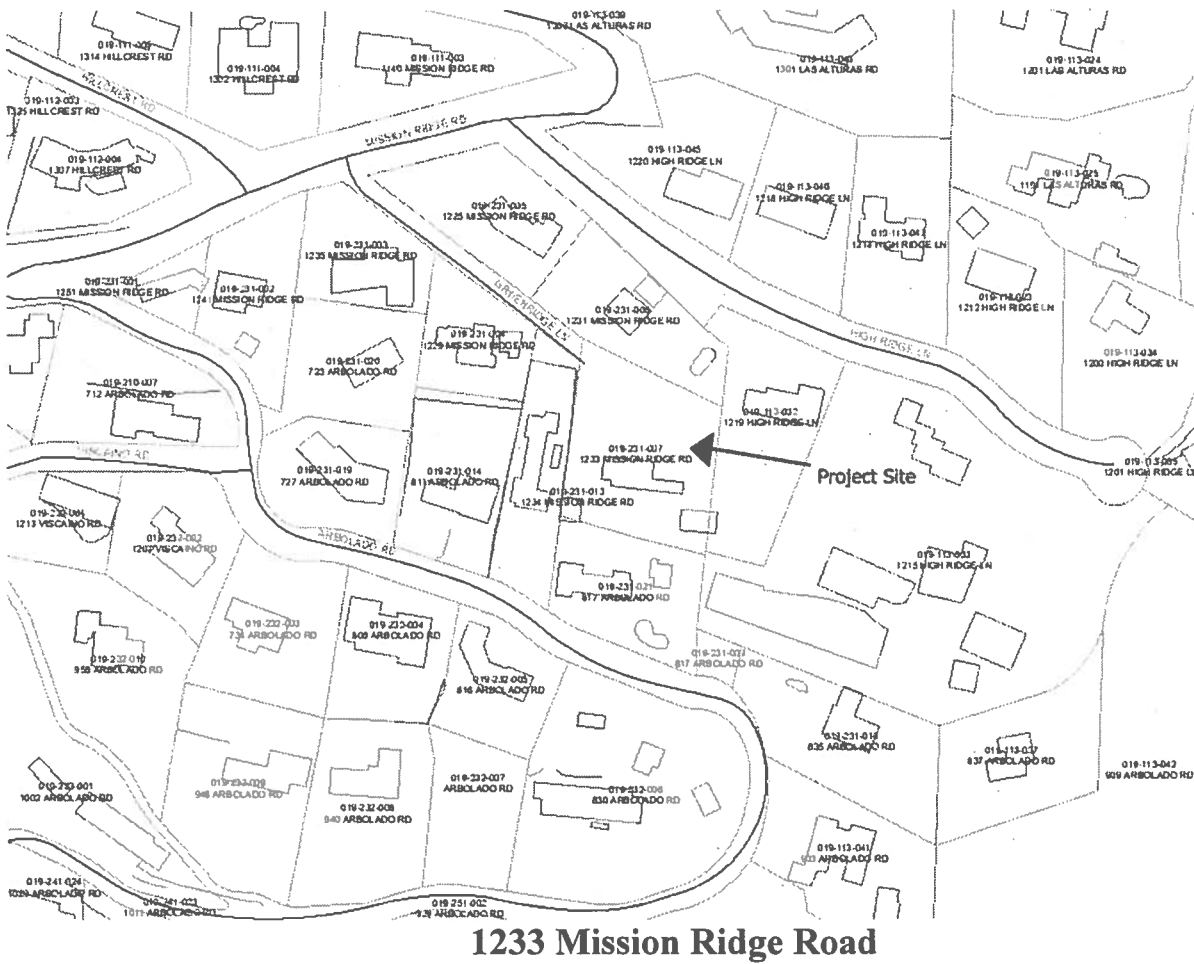
The discretionary application required for this project is a Performance Standard Permit to permit an additional dwelling on a one-family residentially zoned lot (SBMC § 28.93.030.E).

III. RECOMMENDATION

The proposed project conforms to the City's Zoning and Building Ordinances and the policies of the General Plan. The proposed project does not have a significant impact on public views, and has been reviewed and approved by the City of Santa Barbara Fire Department. In addition, the size and massing of the project have been found to be consistent with the surrounding neighborhood by the Single Family Design Board. The project will require Final Design Approval from the Single Family Design Board before a building permit will be issued. Further, the City's Environmental Analyst has examined the site and reviewed the proposed plans, and has determined that the project will not result in a significant effect on the environment and is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines Section 15303. Therefore, Staff recommends that

Planning Commission Staff Report
1233 Mission Ridge Road (MST2011-00186)
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the Planning Commission deny the appeal and uphold the decision of the Staff Hearing Officer to approve the project making the findings outlined in Section VI of this report.



SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant: Mark Shields, Design Arc	Property Owner: Thomas and Barbara Sanborn
Parcel Number: 019-231-007	Lot Area: 31,584 square feet
General Plan: Residential, 1 unit/acre	Zoning: E-1
Existing Use: Residential	Topography: 8.94%
Adjacent Land Uses:	
North - Residential South - Residential	East - Residential West - Residential

B. PROJECT STATISTICS

Proposed	Main Residence	Additional Dwelling Unit
Living Area	3,796	920
Garage	407	459
Accessory Space	192	125

C. PROPOSED LOT AREA COVERAGE

Building: 5,899 sf 19% Hardscape: 8,070 sf 25.5% Landscape: 17,615 sf 55.5%

IV. ZONING ORDINANCE CONSISTENCY

Standard	Requirement	Existing	Proposed SFR	Proposed ADU
Setbacks -Front -Interior	30' 10'	>30' >10'	30' at Greenridge ~50' at rear ~17' at side	N/A 10'
Building Height	30'	1 story	24' at master bedroom	17'
Parking	4	2	2 covered	2 covered
Lot Area Required for Each Unit	15,000 sf	31,584 sf	15,000 sf	15,000 sf
Open Yard	1,250 sf	>1,250 sf	>1,250 sf	>1,250 sf

The zoning requirements in the above table apply to both structures. Both the proposed single family residence and the additional dwelling unit meet all of the applicable zoning requirements.

A. PERFORMANCE STANDARD PERMIT FOR ADDITIONAL DWELLING UNIT

Chapter 28.93 of the Municipal Code provides opportunity for additional dwelling units on single-family lots through the approval of a Performance Standard Permit (PSP). The criteria for granting a PSP require that there be adequate lot area, adequate egress and ingress, and that the location of the additional dwelling complies with all applicable ordinances.

The subject property is zoned E-1, with an average overall slope of 8.94%, which requires a minimum lot area of 15,000 square feet per unit. This 31,584 square foot property provides adequate lot area for two residences. Access to the lot and ingress/egress to each unit will be provided by the existing driveway from Greenridge Lane. The location of both proposed residential units conforms to the requirements of the Zoning Ordinance with regard to setbacks, distance between buildings, building height, parking and open yard.

V. APPEAL ISSUES

A. INADEQUATE FINDINGS

Appellant's Contention: The appellant states that the findings fail to identify the substantial evidence supporting the approval of the Performance Standard Permit.

Staff's Response: The Staff Hearing Officer finding referenced Section IV of the Staff Hearing Officer's staff report, where the reasoning and basis for the decision were described in detail. This is an acceptable method to state the reasoning for the decision, and the finding is adequate.

B. COMPLIANCE WITH PERFORMANCE STANDARD PERMIT REQUIREMENTS FOR ADDITIONAL DWELLING UNITS (SBMC §28.93.030E)

Appellant's Contention: The appellant states that the project site does not have adequate lot size or adequate ingress and egress for the Additional Dwelling Unit, that the project improperly expands a nonconforming use, that the location of the additional dwelling unit does not comply with the secondary dwelling unit requirements, that the project is inconsistent with the General Plan, and that the project is a nuisance.

Staff Response:

Lot Size. The minimum lot size for newly created lots in the E-1 Zone is 15,000 square feet. Therefore, to meet the required findings for a Performance Standard Permit for an Additional Unit, this lot is required to have twice the minimum lot area, or 30,000 square feet. The appellant argues that the City's permit tracking database shows the lot area as having 28,964 square feet of lot area. Because the lot size information in the database is only an estimate created by "rubber-sheeting" parcel lines to match aerial photos, one of the first items of information that staff required in the initial review of this project was verification that the lot size was at least 30,000 square feet. The applicant provided three separate lot size calculations prepared by a registered civil engineer and two licensed surveyors, based on the last boundary

line survey. These were provided to the appellant on January 10, 2011 and February 8, 2011. All three lot size calculations concluded that the lot size has 31,584 square feet of lot area. Based on the more specific information contained in the lot area calculations, Staff determined that the lot size is adequate.

Ingress/Egress. The lot is currently accessed from Greenridge Lane, a private lane that is accessed from Mission Ridge Road. The road easement is 20 feet wide. There is one short area of the road limited to approximately 16'-4" in width due to overgrown vegetation at the corner of Mission Ridge and Greenridge. The City's Transportation Planning Division staff have determined that Greenridge Lane provides adequate access for day-to-day use by residents and visitors.

The current City Fire Code requires new fire access roads be built to a 20 foot width. While it is true that neither Greenridge Lane nor Mission Ridge Road comply with today's high fire standards, both of these roads were installed before today's standards existed and therefore, like many roads on the Riviera, are considered legally non-conforming.

In the High Fire Areas of the City, the City Fire Department and Fire Marshall determine the necessary actions to sufficiently protect structures and the public from the threat of wildland fire. It is the job of the Fire Department to interpret and enforce the policies and requirements of the City's Wildland Fire Plan and Fire Code to achieve the necessary level of fire protection. The potential risks associated with existing non-conforming nature of several roads in the Riviera such as Greenridge Lane were analyzed in the development of the City's Wildland Fire Plan and Fire Code and are considered in detail by the Fire Department in their project reviews.

When new subdivisions or fire access roads are proposed, these developments are required to meet the minimum road width requirement of 20'. For existing roads that serve multiple residences and don't currently meet the minimum 20 foot width, the Fire Marshall generally does not require a single development on the road to widen the road unless it is determined that the existing road will not allow fire equipment to reach the proposed development and would, therefore, pose a threat to those proposed structures and residences. Section 104.8 of the California Fire Code states that the fire code official has the authority to grant modifications for individual cases, provided the fire code official shall first find that special individual reasons makes the strict letter of this code impractical, and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. In Santa Barbara, the City Fire Marshall and the Prevention Bureau staff serve as the City's fire code officials.

In this case, the City Fire Department reviewed the fire access at Greenridge Lane, the proposed project plans, the development served by the lane; and has driven City fire equipment up the lane. In the event of a fire emergency, the first two addresses on Greenridge Lane (1225 & 1235 Mission Ridge Road) may be accessed directly from Mission Ridge Road itself without the need to use Greenridge Lane. This leaves four lots remaining with sole access from Greenridge Lane (1229, 1231, 1233 and 1234 Mission Ridge Road). Based on the review of the plans and a physical inspection of the access route with City fire equipment, the Fire Marshall has determined that the road is wide enough for City fire engines and that it provides an adequate level of access for all of the existing and proposed development along the road.

Further, the Fire Marshall has determined that the project is not considered a change in use as it will remain residential, and it is not anticipated to create a substantially different demand on fire protection services or interfere or impair emergency evacuation of the area.

Additionally, the Fire Marshall has reviewed the proposed building design and access around the proposed buildings, and has found that site design meets all fire code requirements. In a letter addressed to Tom and Barbara Sanborn, dated January 11, 2011, (Exhibit B), the Fire Department states that the proposed structures will meet Fire Department access standards and will be designed and constructed to High Fire Construction requirements. The new structures will be equipped with automatic fire sprinkler systems whereas the existing buildings are not. The proposed landscaping is designed to comply with the High Fire Landscape Guidelines and Defensible Space requirements. The existing accessory building on the property does not meet fire access standards, as the existing accessory building is 269 feet from the end of Greenridge Lane. The new Additional Dwelling Unit will be 150 feet from the end of the Lane and the main house will also be constructed closer to that access point. Therefore, the proposed project (which would remove all existing improvements) will substantially increase the level of fire safety on this property when compared to the existing conditions. The proposed project, in effect, will remove deficiencies on the current property concerning access, fire resistant construction and sprinkler requirements of the 2010 California Fire Code. For these reasons, the Fire Marshall has determined that the proposed project would not expose people or structures to significant risk of loss, injury or death involving wildland fires.

Expansion of Nonconforming Use: At this time, there are no nonconforming uses on the site. The lot contains a single family residence, a detached garage, and an accessory building. All three buildings are permitted. The accessory building had an unpermitted kitchen, which created an illegal dwelling unit. However, through the enforcement process, the kitchen was removed, and the building was re-converted back to an accessory building. All three buildings are proposed to be demolished as part of this project. Since there are no nonconforming buildings or uses on site and all structures on the property will be demolished as part of the proposed project, the project does not expand a nonconforming use.

Even if a nonconforming additional dwelling unit did exist on the site, the approval of a Performance Standard Permit for an Additional Dwelling Unit would change the legal status of the building from "nonconforming," to "approved and conforming." An expansion of the Additional Dwelling Unit in such a case would not be an expansion of a nonconforming use, but rather the expansion of a conforming use.

The parcel is nonconforming to the 90' public street frontage requirement, in that it does not have any public street frontage. Because the proposal does not increase the nonconformity of the lot (e.g. the project does not result in less public street frontage), the Additional Dwelling Unit is allowed, as would an addition to a house on a lot without street frontage.

Secondary Dwelling Unit Requirements. The Secondary Dwelling Unit requirements do not apply to Additional Dwelling Units. Secondary Dwelling Units and Additional Dwelling Units are different uses under the Municipal Code. Secondary Dwelling Units (also known as "granny units," or "in-law units," are allowed ministerially, as long as they comply with the requirements contained in SBMC §28.94.030.Z. Some of those requirements are: a minimum

lot size of 7,000 s.f., the two units must be connected, the Secondary Dwelling Unit is limited to 600 s.f. in size, and a prohibition in the high fire zone. Secondary Dwelling Units are considered to be part of a Single Family Dwelling, and buildings that contain a main residence and a Secondary Dwelling Unit are not considered duplexes.

Additional Dwelling Units may be located in the High Fire Hazard area. Secondary Dwelling Units may not be located in the High Fire Hazard area. The main reason for this differential treatment between Secondary Dwelling Units and Additional Dwelling Units is the difference in the potential residential density presented by the two uses. Additional Dwelling Units require the same amount of lot area as the underlying zone (i.e. a main unit and an Additional Dwelling Unit on a lot requires twice the minimum lots size), whereas a Secondary Dwelling Unit may be located on a lot as small as 7,000 s.f. where another main residence is already located.

General Plan Inconsistencies: The project complies with the Seismic Safety and Safety Element of the General Plan, in that the Fire Department has determined the access to be adequate. It would be inappropriate to compare the project to proposed General Plan Amendments, as there is no guarantee that the currently proposed amendments to the General Plan will be adopted. The only General Plan policies that apply are the existing policies currently in effect.

Nuisance: The project meets all applicable requirements of the Zoning Ordinance, and access and evacuation has been deemed adequate by the Fire Department. The project is not a nuisance, pursuant to SBMC §28.98.001.

C. CATEGORICAL EXEMPTION IS NOT AVAILABLE FOR THIS PROJECT

Appellant's Contention: The appellant states that the project cannot be found categorically exempt from CEQA because: a) the project is too large to qualify for the small structures exemption; b) unusual circumstances preclude the use of a categorical exemption; c) the project site is located in a particularly sensitive environment; d) the cumulative impacts of the project and other past, present, or reasonably foreseeable future projects present a potentially substantial adverse effect on the environment; e) the City has not adopted thresholds of significance; and f) the Staff Hearing Officer's findings are not in compliance with CEQA. The appellant argues that an environmental impact report must be prepared before the project may be approved.

Staff's Response:

Project Too Large To Qualify For New Construction Categorical Exemption. The appellant states that the project does not qualify for a categorical exemption from CEQA under Section 15303 New Construction of Small Structures because the structure is not a small structure by local standards given the floor area ratio of the main residence and additional dwelling unit. CEQA is a state law. The state defines the scope of CEQA through its statutes and administrative guidelines.

State CEQA Guidelines Section 15303 states that a project may qualify for a categorical exemption if the project involves the construction of a limited number of new small structures.

The term “small structures” in this section does not refer to City of Santa Barbara local standards and floor area ratios, but to the State of California’s determination as to the class of development that is considered a small enough to not have significant effects on the environment. The evaluation of local floor area ratios and other local standards are, therefore, not relevant when discussing whether the project meets the State’s CEQA definition of small.

Subsection (a) of the Section 15303 New Construction exemption specifies that a project can be considered categorically exempt if the project includes construction of:

One single-family residence, or a second dwelling unit in a residential zone. In Urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

The term “urbanized areas” is defined in CEQA Guidelines Section 15387 and refers specifically to those areas mapped by the US Census Bureau as having a certain density and population. The project site and surrounding areas are, clearly mapped as “urbanized” by the US Census Bureau and, therefore, up to three residences could be built and still meet this small structures exemption category. Construction of the proposed single-family residence and additional dwelling unit therefore, clearly qualify for a CEQA categorical exemption under Section 15303 New Construction of Small Structures. Furthermore, CEQA Guidelines section 15300.4 states that local agencies may not require environmental impact reports for projects described within the classes and examples of the state’s categorical exemptions, except under the provisions of Guideline Section 15300.2.

Unusual Circumstances and Sensitive Environment Preclude the Use of Categorical Exemption. A Categorical Exemption from CEQA can not be used where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances or the projects location in a particularly sensitive environment (CEQA Guidelines Section 15300.2(a) and (c)). Specifically, the Appellant states that the project could potentially result in significant aesthetic, visual, and fire hazard impacts due to its unique location in a visually sensitive and high fire hazard area.

The appellant expresses concerns that the project has a significant affect on scenic vistas and will significantly impact the aesthetics of the area. The project is located in an area fully developed with single-family residences. The proposed project would not significantly block views of the ocean or mountains from public viewing locations or scenic view corridors. While the project will change private views for a few of the adjacent residences, public scenic views and vistas of the larger community will not be significantly impacted. While it is proper to consider the project impacts on private views, the question under CEQA is whether the project will adversely affect the environment of persons in general, not whether a project will affect particular persons. The partial obstruction of a few private views in a project’s immediate vicinity is not regarded as a significant environmental impact under CEQA.

The proposed project retains existing mature oak trees on the property, involves minimal grading, and is located in an area already fully developed with single-family residences. The project is consistent with the surrounding neighborhood and has received positive comments from the Single Family Design Review Board at concept review. The City’s Urban Historian

has reviewed the project site and has determined that the existing residence on the site would not qualify as a Structure of Merit or Landmark and therefore, would not need further analysis in a Historic Structures Report. The project, therefore, will not substantially degrade the visual character or quality of the site, significantly affect day or nighttime views in the area, and will not impact historic resources.

The appellant also states that because the project is in a High Fire Hazard Area and the existing roads are non-conforming to today's Fire Requirements, that the project could present a substantial cumulative risk to life and property from wildfires. Please see subsection V.B. "Ingress/Egress" above for a detailed discussion of fire hazard issues. As discussed in subsection V.B., the City of Santa Barbara Fire Department has reviewed and approved the proposed project and determined that the new construction will comply with fire construction requirements. Currently, the existing accessory building on the property does not meet fire access standards because of its distance from the end of Greenridge Lane, the type of construction and landscaping materials and the lack of a fire sprinkler system. Therefore, the proposed project (which would remove all existing improvements) would provide a substantial net increase in level of fire safety from existing conditions on the site. The Fire Department has also determined that the access road to the property (Greenridge Lane) is wide enough for City fire engines and provides an adequate level of access for all of the existing and proposed development along the road because the project as a whole takes a non-conforming property and brings it into substantial conformance for fire and life safety purposes. Further, the City has an approved evacuation plan for the area and the Fire Department has determined that the proposed project would not impede or interfere with evacuation of the area. For these reasons, it has been determined that the proposed project will not expose people or structures to significant risk of loss, injury or death involving wildland fires or interfere with the implementation of an emergency evacuation plan.

In conclusion, the City's Environmental Analyst Staff have examined the site, reviewed the proposed plans, and examined the appellant's concerns and has determined that the project will not result in a project specific or cumulative significant effect on the environment due to unusual circumstances or its location in a particularly sensitive environment. The project, therefore, qualifies for a categorical exemption from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 New Construction.

Failure to Adopt Thresholds of Significance. The appellant states that the City Staff is applying thresholds to projects without having an adopted set of thresholds. CEQA Guidelines Section 15064.7 encourages, does not require, public agencies to develop and publish thresholds of significance. The City has developed thresholds over the years that are reflected in standard language in Initial Studies prepared by the City. These thresholds are based on Appendix G of the CEQA Guidelines, State and Federal policies and laws, and the City's Master Environmental Assessment, General Plan, Zoning Ordinance, and other resource specific policy documents approved by the City Council.

D. THE GOOD NEIGHBORHOOD POLICY WAS NOT INSTITUTED

Appellant's Contention: The appellant states that the applicant has not followed the Good Neighborhood Policies by not installing story poles.

Staff's Response: Neighboring residents have expressed concerns about the proposed project's effects on their private views. The applicant has been directed to install story poles by the Single Family Design Board and by Staff. The story poles must be installed to the Standard Level prior to returning to the SFDB. This appeal is for the approval of the Performance Standard Permit. Architecture, design and neighborhood compatibility are not findings that are required by the SHO to approve a PSP. Therefore, the appropriate opportunity for the story poles has not yet been reached. This project will not return to the Single Family Design Board, nor will it receive a Project Design Approval, until story poles have been installed.

VI. FINDINGS

The Planning Commission finds the following:

PERFORMANCE STANDARD PERMIT (SBMC 28.93.030)

The Performance Standard Permit complies with all standards of SBMC 28.93.030.E, including adequate lot area for two residential units with associated existing accessory space, and adequate ingress and egress for each residence. Based on the discussions in Sections V.B and C of this Staff Report, the Planning Commission concludes there is adequate ingress and egress to the project site for day-to-day and emergency use. The project is located on a 31,584 square foot lot of which is more than the minimum lot size required for an Additional Dwelling Unit in the E-1 zone district, as described in Sections III. and IV of this Staff Report. The new structures will comply with all ordinance standards of the E-1 Zone including height and setbacks, parking and open yard, as described in Section IV.

Exhibits:

- A. Appellant's Letter dated February 7, 2011 — Attached to CAR Attachment 1
- B. Fire Department Letter dated January 11, 2011
- C. Survey documentation
- D. SHO Staff Report dated January 19, 2011
- E. SHO Resolution No. 002-11
- F. SHO Minutes dated January 26, 2011
- G. Site Plan



City of Santa Barbara

Fire Department

www.ci.santa-barbara.ca.us

January 11, 2011

Tom and Barbara Sanborn
1233 Mission Ridge Road
Santa Barbara, CA 93103

Administration

Tel: 805.965.5254

Fax: 805.564.5730

Fire Prevention/
Public Education

Tel: 805.564.5702

Fax: 805.564.5715

121 W. Carillo St.
Santa Barbara, CA
93101

Subject: Proposed Development at 1233 Mission Ridge Road, MST2010-00186

Dear Tom and Barbara Sanborn,

This letter shall serve for all interested and concerned parties as documentation that I have reviewed the conceptually proposed development for the above project on several occasions. During the early reviews I have made suggestions to improve emergency access and provided input for current Fire Code requirements. As of the date of this letter those suggestions and comments have been addressed to my satisfaction.

This proposal will relocate the guest house to within Fire Department access standards, which is currently not the case. The current main house, as will the proposed main house, is within Fire Department access standards. All of the new proposed structures will be designed and constructed to current High Fire construction requirements and will be provided with automatic fire sprinkler systems. The current landscaping meets, and in some cases exceeds High Fire Defensible Space requirements. The new project will be required to meet current High Fire Landscape Guidelines and Defensible Space requirements.

Based on the above mentioned conditions this proposal will provide a higher degree of fire safety for the property owners and the surrounding residence. As currently proposed this project is approved by the Fire Department.

Sincerely,

A handwritten signature in black ink, appearing to be "Jim Austin", with a long horizontal flourish extending to the right.

Jim Austin, Fire Inspector III/Investigator

Cc: Mark Shields, Design Arc

EXHIBIT B



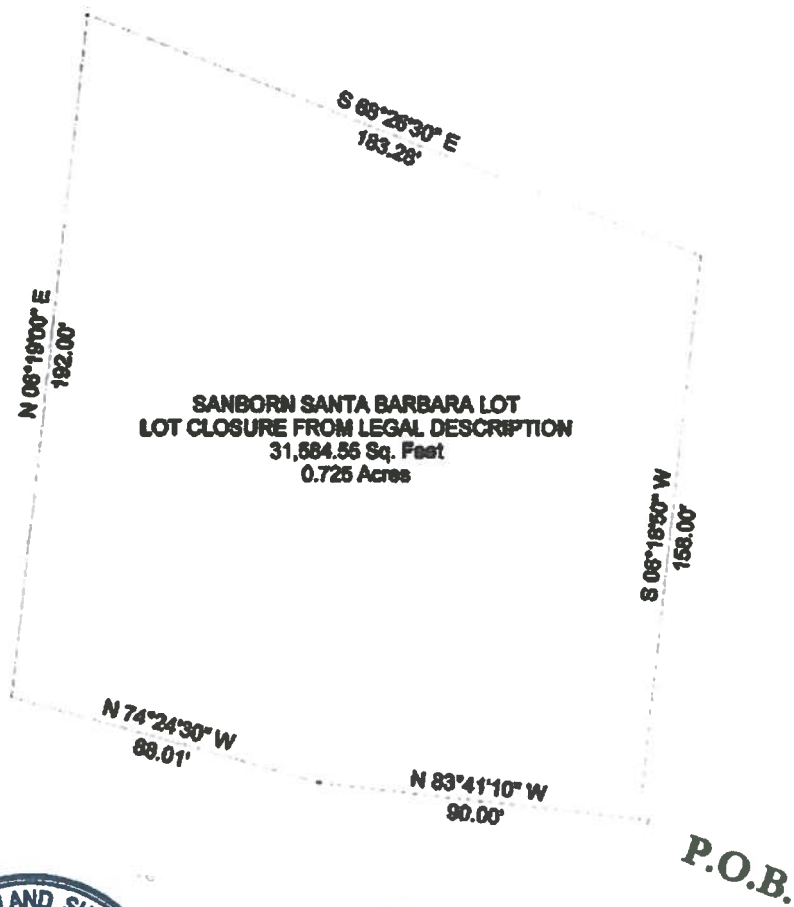
ENGINEERING ■ PLANNING ■ SURVEYING

TRACT NAME: SANBORN SANTA BARBARA LOT
DESCRIPTION: LOT CLOSURE FROM LEGAL DESCRIPTION
DISTANCE UNITS: Feet
POINT OF BEGINNING: N=5000.00000', E=5000.00000'

TYPE	DIRECTION	DISTANCE	NORTHING	EASTING	DESCRIPTION
LINE	N 83°41'10" W	90.00'	5009.89777'	4910.54591'	
LINE	N 74°24'30" W	88.01'	5033.55308'	4825.77453'	
LINE	N 06°19'00" E	192.00'	5224.38744'	4846.89903'	
LINE	S 68°26'30" E	183.28'	5157.04152'	5017.35749'	
LINE	S 06°18'50" W	158.00'	4999.99989'	4999.98140'	

Area: 31,584.55 Sq. Feet, 0.725 Acres (Un-balanced)
Perimeter: 711.29'
Closing line: N 89°40'35" E, 0.02'
Error in closure: 1:38235





SANBORN SANTA BARBARA LOT

DATE: 11/8/2010

SCALE: 1" = 50'

DRAWN BY: PED

Macomber Surveying

4023 Primavera Rd #B
Santa Barbara, Ca. 93110
phone 805 967-9226
fax 805 681-9158

date: June 4, 2010

RECEIVED
DEC 06 2010

CITY OF SANTA BARBARA
PLANNING DIVISION

To: Tom Sanborn

RE: Topography Map

Tom:

Per your request.

The area of the lot was determined by record bearing and distance for the boundaries of the lot as shown for Lot 3, Book 28, Page 85, Record of Surveys filed in August, 1947. Area = 31854 sq. ft.

The average slope was determined by using the formula from the city code, $S = .00229 \text{ IL/A}$. $S = 8.94\%$

A = lot size in acres $31584/43560 = .725$

I = Contour interval = 2 ft.

L = Length of contours = 1415.77

S = Average slope

Yours truly,



Archie L. Macomber, LS 4817



Macomber Surveying
4023 Primavera Rd #B
Santa Barbara, Ca. 93110
phone 805 967-9226
fax 805 681-9158

date: Oct. 11, 2010

To: Tom Sanborn

RE: Topography Map

Tom:

Per your request. This is a letter to correct a typo in a letter dated June 4, 2010. The Area is = 31584 not 31854 sq. ft. as stated in the previous letter.

The area of the lot was determined by record bearing and distance for the boundaries of the lot as shown for Lot 3, Book 28, Page 85, Record of Surveys filed in August, 1947. Area = 31584 sq. ft.

The average slope was determined by using the formula from the city code, $S = .00229 \text{ IL/A}$. $S = 8.94 \%$

$A = \text{lot size in acres } 31584/43560 = .725$

$I = \text{Contour interval} = 2 \text{ ft.}$

$L = \text{Length of contours} = 1415.77$

$S = \text{Average slope}$

Yours truly,


Archie L. Macomber, LS 4817



AVERAGE SLOPE

$$S = .002291L/A$$

$$S = 8.94$$

$$A = \text{LOT SIZE IN ACRES } 31584/43560 = .725$$

$$I = \text{CONTOUR INTERVAL} = 2 \text{ FT}$$

$$L = \text{LENGTH OF CONTOURS} = 1415.77$$

TABLE

$$688 = 212.56$$

$$686 = 204.93$$

$$684 = 207.10$$

$$682 = 199.88$$

$$680 = 186.84$$

$$678 = 192.20$$

$$676 = 126.69$$

$$674 = 58.55$$

$$672 = \underline{27.02}$$

$$1415.77$$

January 10, 2011

Job # 11338

Tom and Barbara Sanborn
1233 Mission Ridge Road
Santa Barbara, Ca.93101

Subject: 1233 Mission Ridge Road

In accordance with your request we calculated the average slope of subject parcel as 9.18%. The calculation was based on the field survey prepared by Macomber Surveying performed in 2010. We used the methodology per City Municipal Code Section 28.15.080. Lot Area was calculated as 31,584.62 Sq. Ft (0.725 acres).

Please call if we can be of further assistance at this time.

Sincerely,


Mike Gones





City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: January 19, 2011
AGENDA DATE: January 26, 2011
PROJECT ADDRESS: 1233 Mission Ridge Road (MST2011-000186)
TO: Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner *DK*
Kelly Brodison, Assistant Planner *KAB*

I. PROJECT DESCRIPTION

The project consists of a proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet, and to construct two new single-family residences on a 31,584 square foot lot in the Hillside Design District. The proposal includes Unit 1 as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. Unit 2 is proposed as a detached, 920 square foot one-story additional dwelling unit, with a 459 square foot two-car garage and a 125 square foot storage area that are attached to Unit 1. The discretionary application required for this project is a Performance Standard Permit to permit an additional one-family dwelling on a one-family residentially zoned lot (SBMC 28.93.2030).

II. RECOMMENDATION

The proposed project conforms to the City's Zoning and Building Ordinances and policies of the General Plan. In addition, the size and massing of the project have been reviewed by Staff and conceptually reviewed by the Single Family Design Board and have been found to be consistent with the surrounding neighborhood. Therefore, Staff recommends that the Staff Hearing Officer approve the project.

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant: Mark Shields, Design Arc	Property Owner: Thomas and Barbara Sanborn
Parcel Number: 019-231-007	Lot Area: 31,584 square feet
General Plan: Residential, 1 unit/acre	Zoning: E-1
Existing Use: Residential	Topography: 8.94%
Adjacent Land Uses:	
North - Residential South - Residential	East - Residential West - Residential

B. PROJECT STATISTICS

	Main Residence	Additional Dwelling Unit
Living Area	3,796	920
Garage	407	459
Accessory Space	192	125

C. PROPOSED LOT AREA COVERAGE

Building: 5,899 sf 19% Hardscape: 8,070 sf 25.5% Landscape: 17,615 sf 55.5%

IV. ZONING ORDINANCE CONSISTENCY

Standard	Requirement/ Allowance	Existing	Proposed
Setbacks			
-Front	30'	>30'	30'
-Interior	10'	>10'	10'
Building Height	30'	1 story	24'
Parking	4	2	4
Lot Area Required for Each Unit	15,000 sf	31,584 sf	No change
Open Yard	1,250 sf	>1,250 sf	>1,250 sf

The proposed structures meet all of the current zoning requirements.

A. PERFORMANCE STANDARD PERMIT FOR ADDITIONAL DWELLING UNIT

Chapter 28.93 of the Municipal Code provides opportunity for additional dwelling units on single family lots through the approval of a Performance Standard Permit (PSP). The criteria

for granting a PSP require that there be adequate lot area, egress and ingress, and that the location of the additional dwelling complies with all applicable ordinances.

The subject property is zoned E-1, with an average overall slope of 8.94%, which requires a minimum lot area of 15,000 square feet per unit. This 31,584 square foot property provides adequate lot area for two residences. Access to the lot and ingress/egress to each unit will be provided by the existing driveway off of Greenridge Lane. The location of both proposed residential units conforms to the requirements of the Zoning Ordinance, as shown in the table above.

V. DISCUSSION

A. ENVIRONMENTAL REVIEW

The proposed project would not block views of the ocean or mountains from important public viewing locations. While the project will change private views for a few of the adjacent residences, important scenic views and vistas of the larger community will not be impacted. The proposed project retains existing mature oak trees on the property, involves minimal grading, and is located in an area already fully developed with single family residences. The project, therefore, will not substantially degrade the visual character or quality of the site or significantly adversely affect day or nighttime views in the area. The City's Urban Historian has reviewed the project site and has determined that the existing residence on the site would not qualify as a Structure of Merit or Landmark and therefore, would not need further analysis in a Historic Structures Report. Staff and the Environmental Analyst have examined the site and reviewed the proposed plans, and have determined that the project will not result in a significant effect on the environment. Therefore the project has been determined to be exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 New Construction.

B. DESIGN REVIEW

This project was reviewed by Single Family Design Board (SFDB) on three occasions and meeting minutes are attached as Exhibit C. At the first meeting on July 19, 2010, the SFDB requested that the applicant reduce the square footage as well as size, bulk, and scale, and lower the ridge height. The main residence was proposed to be 143% of the FAR guidelines, and the Additional Dwelling Unit was proposed to be 32% of the FAR guidelines. Although maximum FARs are not applied as requirements for lots greater than 15,000 square feet in size, the Board felt that the overall size of the proposed main residence was excessive for this lot. However the Board stated that the Performance Standard Permit was supportable.

The project returned to the SFDB for a second time on August 30, 2010. The applicant responded to comments from the Board and concerns from the adjacent neighbors by lowering the ridge heights of the main structure and reducing the overall square footage. The main structure was also moved two feet to the north in order to address privacy concerns from the adjacent neighbor to the south. The Board appreciated the overall design however, stated the project could be further reduced in size.

When the project returned for its third review on November 22, 2010, the Board expressed their appreciation for the quality and style of architecture and stated that the project is well integrated with the lot. The applicant had reduced the size of the main house so that it is at 99% of the maximum guideline FAR, and the Additional Dwelling Unit was increased slightly to be 34% of the maximum guideline FAR. The Board was satisfied with this reduction in square footage. The project was continued with positive comments to the Staff Hearing Officer for review of the Performance Standard Permit. The Board requested that subsequent to the SHO review, and prior to returning to the SFDB, story poles be installed to the Standard Level as described in the Single Family Design Board Guidelines. The overall project design will continue to be reviewed by the Single Family Design Board.

VI. FINDINGS

The Staff Hearing Officer finds the following:

A. PERFORMANCE STANDARD PERMIT (SBMC 28.93.030)

The Staff Hearing Officer finds that the Performance Standard Permit complies with all standards of SBMC 28.93.030.E, including adequate lot area for two residential units, with associated existing accessory space, and adequate ingress and egress for each residence. The Additional Dwelling Unit has adequate ingress and egress, complies with all ordinance standards including height and setbacks, and is located on a lot of adequate size for an Additional Dwelling Unit in the E-1 zone district, as described in Section IV of the staff report.

Exhibits:

- A. Site Plan
- B. Applicant's letter, dated December 2, 2010
- C. SFDB Minutes

**SANBORN
RESIDENCE**

1233 Mission Ridge Road
Santa Barbara, California

SITE PLAN

A1.1

SITE PLAN

SCALE: 1/8" = 1'-0"



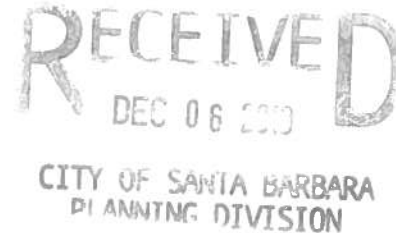
Tom and Barbara Sanborn

1233 Mission Ridge Rd
Santa Barbara, CA 93103

Home/Fax 805 845-8338
Office 805-845-6522
tsanborn@pacbell.net

December 2, 2010

Staff Hearing Officer
City of Santa Barbara
P.O. Box 1990
Santa Barbara, CA 93102-1990



Re: Performance Standard Permit, 1233 Mission Ridge Road; APN 019-231-007; E-1

Dear Staff Hearing Officer:

The following summary is provided for the above referenced property:

1. Proposal to demolish the existing residence, a secondary residence and a detached garage totaling 2,847 square feet and construct two new single-family residences on a 31,584 square foot lot with an average overall slope of 8.9% in the Hillside Design District. The proposal includes Residential Unit 1 as a 3,796 square foot two story single-family residence with an attached 407 square foot garage, attached 192 square foot workshop, 674 square feet of covered patio, 50 square feet of covered second story deck, pool, spa, hardscape and retaining walls. Residential Unit 2 is a proposed 920 square foot one-story residential unit with a 459 square foot detached two car garage and 125 square foot storage area. The proposed total of 4,395 square feet for Residential Unit 1 is 99.9% of the Design Guideline FAR. The proposed total of the 1,504 square feet for Residential Unit 2 is 34% of the Design Guideline FAR.
2. The subject property and design proposal meet the standards for an additional dwelling as provided by Chapter 28.93 of the City's Zoning Ordinance (Performance Standard Permits) Section 28.93.030 Paragraph E. (Additional Dwelling Units). The subject property, zoned E-1 is 31,584 square feet with an overall slope of 8.9%. The property has adequate ingress and egress.
3. No modifications of the proposed design are requested or currently required.

4. The property currently has two permitted, non-conforming structures; a secondary residence and a detached garage. The second residence was permitted and constructed as a two bedroom, two bath unit in the late 1940s. It encroaches five feet into the site's ten foot side yard setback and is considered non-conforming. The existing two car garage is sited within a foot of the southerly and westerly property lines and is also considered non-conforming. The removal of these two structures and the construction of the new one-bedroom, two-bath Residential Unit 2 and garage will remove existing encroachments, expand view sheds, help integrate and feature the mature oaks on the site, increase privacy for our neighbors, improve access in the event of fire or other emergencies and bring all structures on the site into conformance with current codes and standards. The Single Family Design Board on July 19th reviewed the overall conceptual plans and made separate motions to support the proposed additional dwelling unit and the proposed entry portal/ motor court configuration. The Board met on November 22nd and again strongly supported the current conceptual design and released it for consideration by the Staff Hearing Officer with a 7-0 vote.

Thank you for your consideration.

Sincerely,

Thomas H. Sanborn



SINGLE FAMILY DESIGN BOARD
CASE SUMMARY

1233 MISSION RIDGE RD

MST2010-00186

R- 2 SFR

Page: 1

Project Description:

This is a revised project description. Proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet and construct two new single-family residences on a 31,584 square foot lot in the Hillside Design District. The proposal includes Unit 1 as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. Unit 2 is proposed as a 920 square foot one-story additional dwelling unit with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house. Staff Hearing Officer approval of a Performance Standard Permit is requested to allow an additional dwelling unit per SBMC 28.93.030.E. The proposed total of 4,395 square feet for Unit 1 is 99.9% of the maximum guideline floor to lot area ratio. The proposed total of 1,504 square feet for Unit 2 is 34% of the maximum guideline floor to lot area ratio.

Activities:

11/22/2010

SFDB-Concept Review (Cont.)

(Third concept review. Comments only; project requires Environmental Assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Actual time: 3:31

Present: Marc Shields, Architect; Tom and Barbara Sanborn, Owners.

Public comment opened at 3:48 p.m.

Marc Chytilo, opposed: requested story poles; had issues with mass, bulk, and scale.

Judy Denenholz, opposed: requested applicants follow the good neighbor workshop process; requested story poles.

Keith Rivera, representing neighbors to immediate south: addressed privacy impacts, requested story poles demonstrating window toward neighbors open space.

Beverly Johnson Trial, opposed: requested a new survey.

Beverly Johnson Trial for Allan Trial: opposed: addressed floor area ratio concerns.

Sara Lytle, in favor of the project; nice addition to the Riviera neighborhood.

Laramie Greene, in support of the project; massing is appropriate.

A letter of concern from Paula Westbury was acknowledged.

Public comment was closed at 4:02 p.m.

Activities:

Motion: Continued indefinitely Staff Hearing Officer with the following comments:

- 1) The Board has given the applicant the option to either return to the Full Board after Story poles are installed, or proceed to the Staff Hearing Officer and then return to the Full Board. The Board requests story poles to be installed prior to returning to the full board.*
- 2) The Board compliments and appreciates the applicant's reduction in square footage and the quality of architecture.*
- 3) The quality and style of architecture are well integrated with lot; the alcove/portal entry to the garage is well executed.*

Action: Miller/Woolery, 7/0/0. Motion carried.

11/15/2010***SFDB-Resubmittal Received***

concept continued.

8/30/2010***SFDB-Concept Review (Cont.)***

(Second concept review. Comments only; project requires Environmental Assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Actual time: 6:02

Present: Mark Shields, Architect; Bruce Bartlett, Designer; Mr. and Mrs. Sanborn, Owners.

Ms. Bedard, Planning Technician provided staff comments and remained available to respond to questions from the Board. The applicant submitted four public comment letters in support of the project.

Public comment was opened at 6:22 p.m.

Greg Baranoff: addressed potential second unit, concerned about square footage.

Marc Chytilo, representing Judy Denenholtz: concerned about project size and west wall massing.

Beverly Johnson Trial: concerned about kitchen, lack of screen trees, and loss of views.

Alain Trial: concerned that architecture is contrary to guidelines.

Dan Gainey, neighbor: concerned about loss of privacy.

Keith Rivera: representing Mr. and Mrs. Gainey: concerned about loss of privacy, requested 3-D model.

Katie O'Rielly Rogers: representing Mr. and Mrs. Gainey: concerned about privacy issues, project size.

A letter in opposition from Paula Westbury was acknowledged.

Public comment was closed at 6:43 p.m.

Motion: Continued indefinitely to the Full Board with the comment to significantly reduce the square footage.

Action: Bernstein/Miller, 6/0/1. Motion carried. (Carroll abstained.)

8/23/2010***SFDB-Resubmittal Received***

3 sets of plans + resubmittal forjm

Activities:**7/19/2010****SFDB-Concept Review (New) - PH**

(Comments only; project requires environmental assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Actual time: 6:16

Present: Bruce Bartlet, Architect, DesignARC; Mark Shields, Designer; Tom and Barbara Sandborn, Owners.

Public comment was opened at 6:34 p.m.

Judy Denenholz: opposed to the large size; concerned about fire truck access and neighborhood incompatibility.

Dan Gainey, neighbor: opposed to the loss of privacy.

Greg Baranoff: concerned about loss of views and the large size.

Beverly Johnson Trial: opposed to the large house on a small lot; read a letter from Jim Knight who urged the Board to adhere to the NPO, SFR and Hillside guidelines.

Public comment was closed at 6:52 p.m.

Seven letter expressing opposition or concerns from David and Judy Denenholz, Edith Baranoff, Alain Trial, Jim Knight, Charles Joyce Wright, Frank and Gina Meyers, and Paula Westbury were acknowledged. A letter in support containing 23 signatures was acknowledged. Four additional letters in support from Mary Lou Fahy, Bill Freudenberg & Sarah Stewart, Laurel G. Phillips, and Glen & Dorothy Dyruff were submitted by the applicant.

Motion: Continued four weeks to the Full Board with the following comments:

- 1) Study reducing the square footage as well as size, bulk, and scale.*
- 2) Study lowering the ridge height.*
- 3) Provide supporting information about impacts of the house on the neighborhood. Consider installing story poles. Provide a site section through the property.*
- 4) Provide an arborist report for the existing Oak trees near the house.*
- 5) Provide additional information for landscaping along western property line.*
- 6) The performance standard permit is supportable because there is an existing guest house.*
- 7) The front entry portal design is appreciated.*

Action: Woolery/Bernstein, 7/0/0. Motion carried.

7/6/2010**SFDB-Concept Review (New) - PH**

(Comments only; project requires environmental assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Postponed two weeks at the applicant's request.



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 002-11 1233 MISSION RIDGE ROAD PERFORMANCE STANDARD PERMIT JANUARY 26, 2011

APPLICATION OF MARK SHIELDS OF DESIGN ARC, ARCHITECT FOR THOMAS AND BARBARA SANBORN, PROPERTY OWNERS, 1233 MISSION RIDGE ROAD, APN 019-231-007, E-1 ONE FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 1 UNIT PER ACRE (MST2010-00186)

Proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet and construct two new single-family residences on a 31,584 square foot lot in the Hillside Design District. The proposal includes Unit 1 as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. Unit 2 is proposed as a 920 square foot one-story additional dwelling unit with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house. The proposed total of 4,395 square feet for Unit 1 is 99.9% of the maximum guideline floor to lot area ratio. The proposed total of 1,504 square feet for Unit 2 is 34% of the maximum guideline floor to lot area ratio. The discretionary application required for this project is a Performance Standard Permit to permit an additional dwelling on a one-family residentially zoned lot (SBMC § 28.93.030.E). The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303.

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 1 person appeared to speak in favor of the application, and 5 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, January 19, 2011.
2. Site Plans
3. Correspondence received in support of the project:
 - a. Laurel G. Phillips, 1214 High Ridge Road, Santa Barbara, CA 93103.
 - b. Glen and Dorothy Dyruff, 1234 Mission Ridge Road, Santa Barbara, CA 93103.
 - c. Mary Lou Fahy, 1219 High Ridge Road, Santa Barbara, CA 93103.
 - d. Bill Freudenburg and Sarah Stewart, 1235 Mission Ridge Road, Santa Barbara, CA 93103.
4. Correspondence received in opposition to the project:
 - a. Keith Rivera, 339 Woodley Court, Santa Barbara, CA 93105.
 - b. Dan and Diane Gainey, 817 Arbolado Road, Santa Barbara, CA 93103.

- c. Marc Chytilo, P.O. Box 92233, Santa Barbara, CA 93190.
- d. Judy and David Denenholtz, 1225 Mission Ridge Road, Santa Barbara, CA 93103.
- e. Beverly Johnson Trial, 1218 High Ridge Lane, Santa Barbara, CA 93103.
- f. Alain Trial, 1218 High Ridge Lane, Santa Barbara, CA 93103.
- g. Beth Ford, 314 Elizabeth Street, Santa Barbara, CA 93103.
- h. Frank and Gina Meyers, 1229 Mission Ridge Road, Santa Barbara, CA 93103.

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

- I. Approved the Performance Standard Permit, making findings that the Performance Standard Permit complies with all standards of SBMC 28.93.030.E, including adequate lot area for two residential units, with associated existing accessory space, and adequate ingress and egress for each residence. The Additional Dwelling Unit has adequate ingress and egress, complies with all ordinance standards including height and setbacks, and is located on a lot of adequate size for an Additional Dwelling Unit in the E-1 zone district, as described in Section IV of the Staff Report.
- II. Said approval is subject to the following conditions
 - A. The two existing oak trees (20" and 24") on the east side of the property shall be preserved, protected, and maintained. The recommendations for tree protection during construction, including the suggested changes to the plans included in the body of the arborist letter report from Westree dated August 12, 2010, shall be incorporated into the project and included in any plans submitted for a building permit associated with this project.
 - B. Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way or Greenridge Lane, unless specifically permitted by the Transportation Manager with a Public Works permit.
 - C. During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.

This motion was passed and adopted on the 26 day of January, 2011 by the Staff Hearing Officer of the City of Santa Barbara.

STAFF HEARING OFFICER RESOLUTION No. 002-10
1233 MISSION RIDGE ROAD
JANUARY 26, 2011
PAGE 3

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Staff Hearing Officer at its meeting of the above date.

Kathleen Goo
Kathleen Goo, Staff Hearing Officer Secretary

1/31/11
Date

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Single Family Design Board (SFDB) approval and then a building permit.
5. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
 - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
 - b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
 - i. an Issuance of a Certificate of Occupancy for the use, or;
 - ii. one (1) year from granting the approval.

The ten calendar day appeal period to the Planning Commission was announced and is subject to suspension for review by the Planning Commission.

ACTUAL TIME: 9:18 A.M.

B. APPLICATION OF MARK SHIELDS OF DESIGN ARC, ARCHITECT FOR THOMAS AND BARBARA SANBORN, PROPERTY OWNERS, 1233 MISSION RIDGE ROAD, APN 019-231-007, E-1 ONE FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 1 UNIT PER ACRE (MST2010-00186)

Proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet and construct two new single-family residences on a 31,584 square foot lot in the Hillside Design District. The proposal includes Unit 1 as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. Unit 2 is proposed as a 920 square foot one-story additional dwelling unit with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house. The proposed total of 4,395 square feet for Unit 1 is 99.9% of the maximum guideline floor to lot area ratio. The proposed total of 1,504 square feet for Unit 2 is 34% of the maximum guideline floor to lot area ratio.

The discretionary application required for this project is a Performance Standard Permit to permit an additional dwelling on a one-family residentially zoned lot (SBMC § 28.93.030.E).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303.

Case Planner: Kelly Brodison, Assistant Planner

Present: Mark Shields, Architect; and Thomas and Barbara Sanborn, Owners.

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

Kelly Brodison, Assistant Planner, gave the Staff presentation and recommendation, and announced a correction to the staff report in the correct maximum height of the building to be 29 feet, 6-inches, and not 24 feet as stated in Section IV, of the staff report.

The Public Hearing was opened at 9:41 a.m.

The following people spoke in opposition or with concerns regarding the proposed project:

1. Keith Rivera (neighbor to and agent for Dan & Diane Gainey) requested that the pending story poles address second-floor window locations in order to further address potential neighborhood privacy impacts.

2. Beverly Johnson Trial (northerly neighbor – also submitted and read letter from husband Alan Trial), requested a delay in review of the proposed project until pending installation of story poles, and spoke of concerns of negative impacts to neighborhood density.
3. Beth Ford (with two submitted photos), spoke of concerns of density impacts and the existing difficulty for safe ingress and egress.
4. Marc Chytilo spoke of concerns of inadequate safe emergency access in the High Fire area of the proposed project, inadequate safe ingress and egress, negative neighborhood impact and compatibility issues, massing FAR calculations, and massing of the motor court.
5. Judy Denenholz, spoke of concerns regarding the inadequate size of the lot to support two structures, large FAR calculations, and negative neighborhood impacts.

Laurel Phillips spoke in support of the proposed project, and commented on the beauty of the proposed project and the patience of the owners.

Various public correspondence letters and one petition in support were submitted by Thomas Sanborn (from Laurel Phillips, Glen and Dorothy Dyruff, Mary Lou Fahy, Bill Freudenburg and Sarah Stewart).

Letters in opposition were acknowledged from Dan and Diane Gainey and Marc Chytilo (agent for Judy and David Denenholtz).

The Public Hearing was closed at 10:00 a.m.

Jim Austin, Fire Inspector III/Investigator, stated that he did not have specific reports from fire crews of any difficulty of ingress or egress to Greenridge Lane, and that his assessment on the high fire safety of the existing structures and site and the proposed structures and new landscaping is that the project improves the existing situation.

Melissa Hetrick, Environmental Analyst/Project Planner, spoke on the project's CEQA categorical exemption requirements.

Ms. Brodison clarified the FAR calculations and the surveys conducted to confirm those calculations.

Ms. Reardon clarified with the applicant the intent to include tree protection measures during construction and discussed potential conditions of approval. The applicant expressed agreement with the proposed conditions of approval.

ACTION:

Assigned Resolution No. 002-11

Approved the Performance Standard Permit making the findings outlined in the written Staff Report dated January 19, 2011.

Said approval is subject to the following conditions:

- A. The two existing oak trees (20" and 24") on the east side of the property shall be preserved, protected, and maintained. The recommendations for tree protection during construction, including the suggested changes to the plans included in the body of the arborist letter report from Westree dated August 12, 2010, shall be incorporated into the project and included in any plans submitted for a building permit associated with this project.
- B. Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way or Greenridge Lane, unless specifically permitted by the Transportation Manager with a Public Works permit.
- C. During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.

The ten calendar day appeal period to the Planning Commission was announced and is subject to suspension for review by the Planning Commission.

ACTION:

(10:19 a.m.)

A five minute break was called to give the applicant of Item A, 2849 Verde Vista Drive time to return to the Public Hearing.

III. ADJOURNMENT

Ms. Reardon adjourned the meeting at 10:43 a.m.

Submitted by,

Kathleen Goo, Staff Hearing Officer Secretary

39 West Oak Street
San Jose, CA 95128
408.937.1831
www.designarc.com
39 West Oak Street
San Jose, CA 95128

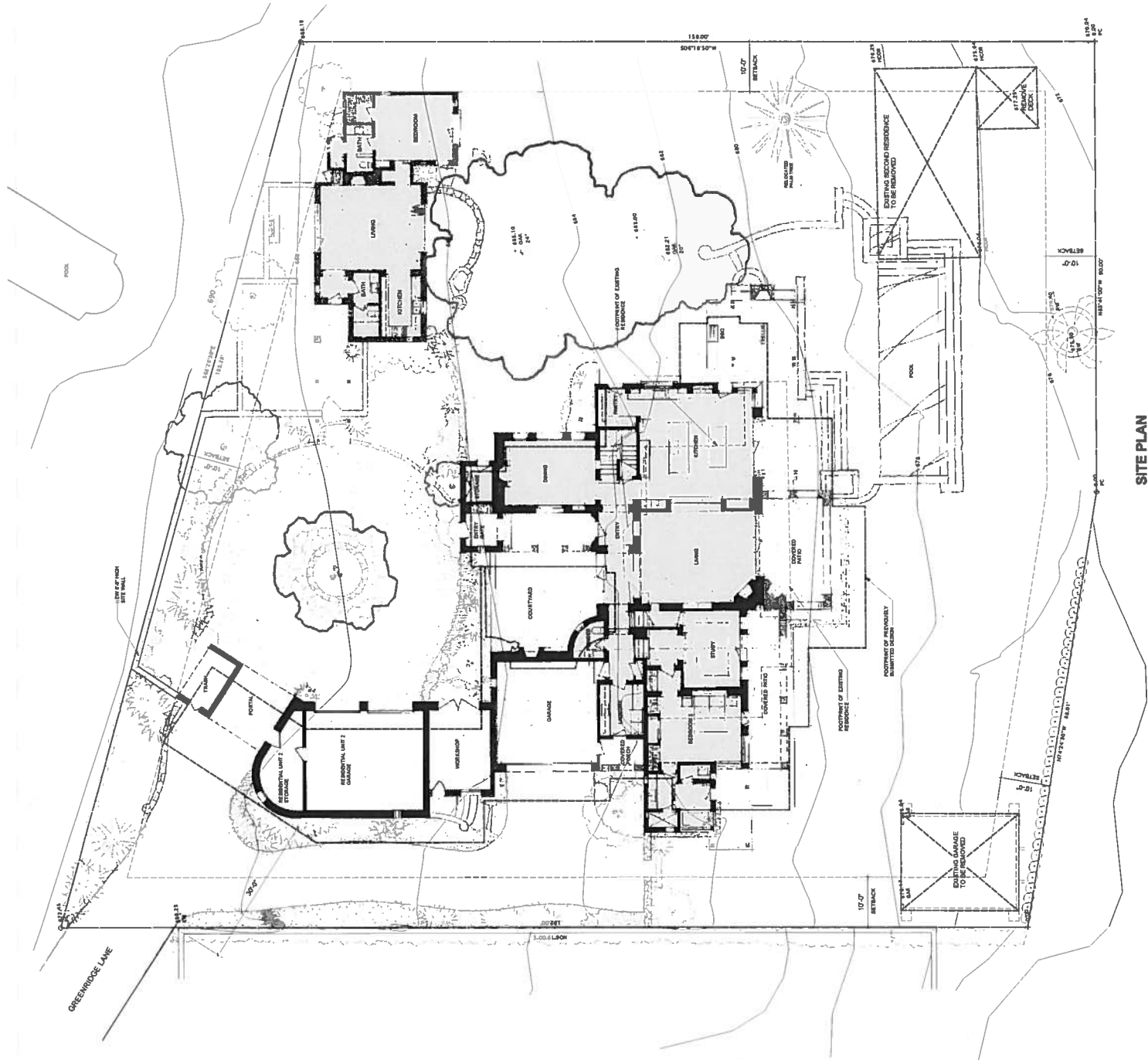
**SANBORN
RESIDENCE**
1233 Mission Ridge Road
San Jose, California

Project Name	DesignARC	Date	
Client			
Architect			
Engineer			
Interior Designer			
Landscaper			
Contractor			
Other			

SITE PLAN

A1.1

Date: _____
Revision: _____



SITE PLAN

SCALE 1/8" = 1'-0"

- C. Comments from members of the public pertaining to items not on this agenda.

Chair Jostes opened the public hearing at 1:09 P.M. and, with no one wishing to speak, closed the hearing.

III. STAFF HEARING OFFICER APPEAL:

ACTUAL TIME: 1:09 P.M.

RECUSALS: To avoid any actual or perceived conflict of interest, Commissioner Bartlett recused himself from hearing this item due to his architectural firm representing the Applicant.

Commissioner Bartlett left the dais at 1:10 P.M. and did not return.

Commissioner Jacobs arrived at 1:10 P.M.

APPEAL BY MARC CHYTILO, AGENT FOR JUDY AND DAVID DENENHOLTZ, OF THE STAFF HEARING OFFICER'S APPROVAL OF THE APPLICATION OF MARK SHIELDS OF DESIGN ARC, ARCHITECT FOR THOMAS AND BARBARA SANBORN, PROPERTY OWNERS, 1233 MISSION RIDGE ROAD, APN 019-231-007, E-1 ONE FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 1 UNIT PER ACRE (MST2010-00186)

Proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet, and construct a new single-family residence and an Additional Dwelling Unit on a 31,584 square foot lot in the Hillside Design District. The new single family dwelling is proposed as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. The Additional Dwelling Unit is proposed as a 920 square foot one-story additional dwelling unit, with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house. The discretionary application required for this project are a Performance Standard Permit to permit an additional dwelling on a one-family residentially zoned lot (SBMC § 28.93.030.E).

This project was approved by the Staff Hearing Office on January 26, 2011 and appealed on February 7, 2011.

Case Planner: Kelly Brodison, Assistant Planner

Email: KBrodison@SantaBarbaraCA.gov

Phone: 805-564-5470, ext. 4531

Kelly Brodison, Assistant Planner, gave the Staff presentation. Joining Ms. Brodison were Joe Poire, Santa Barbara City Fire Marshall, Jim Austin, Santa Barbara City Fire Inspector; Melissa Hetrick, Environmental Analyst; and Susan Reardon, Staff Hearing Officer, who made themselves available to answer any Planning Commission questions.

Marc Chytilo, representing Judy and David Denenholtz, gave the Appellant presentation.

Mark Shields, Architect, gave the Applicant presentation, joined by the Applicants Thomas and Barbara Sanborn.

Chair Jostes opened the public hearing at 1:55 P.M.

Paul Zink, Single Family Design Board Member (SFDB), summarized SFDB's review of the size, bulk, and scale of the project and recommendations made to, and accepted by the Applicant, to mitigate public views. SFDB unanimously supports the direction the Applicant is taking with the project.

The following people spoke in support of the appeal:

1. Judy Denenholtz: safety and fire concerns.
2. Alain Trial : neighborhood incompatibility, FAR, safety and fire concerns, traffic.
3. Beverly Johnson Trial: potential property value impacts, view loss.

The following people spoke in opposition to the appeal and support for the project:

1. Glendon Dyruff
2. Dorothy Padilla
3. Sara Lytle

With no one else wishing to speak, the public hearing was closed at 2:09 P.M.

MOTION: Schawrtz/Jacobs

Assigned Resolution No. 005-11

Deny the appeal and uphold the decision of the Staff Hearing Officer making the findings for the Performance Standard Permit as outlined in the Staff Report subject to the conditions of approval in Staff Hearing Officer Resolution 002-11.

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 0 Absent: 3 (Bartlett, Lodge, Jordan)

Chair Jostes announced the ten calendar day appeal period.

IV. NEW ITEM:

APPLICATION OF CALTRANS, DISTRICT 5, LOCATION: HIGHWAY 101 IN THE VICINITY OF SALINAS ST. ON/OFF RAMPS, APN: 099-MSC-0PW, SD-3 (COASTAL) ZONE, GENERAL PLAN DESIGNATION: OPEN SPACE/BUFFER (CASE# MST2004-00701) Continued to March 17, 2010.



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 005-11
1233 MISSION RIDGE ROAD
PERFORMANCE STANDARD PERMIT
MARCH 10 2011

APPEAL BY MARK CHYTILO, AGENT FOR JUDY AND DAVID DENENHOLTZ, OF THE STAFF HEARING OFFICER'S APPROVAL OF THE APPLICATION OF MARK SHIELDS OF DESIGN ARC, ARCHITECT FOR THOMAS AND BARBARA SANBORN, PROPERTY OWNERS, 1233 MISSION RIDGE ROAD, APN 019-231-007, E-1 ONE FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 1 UNIT PER ACRE (MST2010-00186)

Proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet, and construct a new single-family residence and an Additional Dwelling Unit on a 31,584 square foot lot in the Hillside Design District. The new single family dwelling is proposed as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. The Additional Dwelling Unit is proposed as a 920 square foot one-story additional dwelling unit, with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house. The discretionary application required for this project are a Performance Standard Permit to permit an additional dwelling on a one-family residentially zoned lot (SBMC § 28.93.030.E).

This project was approved by the Staff Hearing Office on January 26, 2011 and appealed on February 7, 2011.

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 3 people appeared to speak in favor of the appeal, and 3 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 3, 2011.
2. Site Plans
3. Correspondence received in support of the appeal or with concerns:
 - a. Dan and Diane Gainey, Santa Barbara, CA
 - b. Cathie McCammon, President, Allied Neighborhoods Association
 - c. Alain Trial, via email
 - d. Paula Westbury, Santa Barbara, CA
 - e. Beverly Johnson, via email

4. Correspondence received in opposition to the appeal:
 - a. Laurel Phillips, Santa Barbara, CA
 - b. Mary Lou Fahy, Santa Barbara, CA
 - c. Sarah Stewart, Santa Barbara, CA
 - d. Sara Lytle and Fred Davis III, Santa Barbara, CA

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

- I. Denied the appeal and upheld the decision of the Staff Hearing Officer's approval making the following findings and determinations subject to the conditions of approval in Staff Hearing Officer Resolution 002-11:

Performance Standard Permit (SBMC 28.93.030)

The Performance Standard Permit complies with all standards of SBMC 28.93.030.E, including adequate lot area for two residential units with associated existing accessory space, and adequate ingress and egress for each residence. Based on the discussions in Sections V.B and C of this Staff Report, the Planning Commission concludes there is adequate ingress and egress to the project site for day-to-day and emergency use. The project is located on a 31,584 square foot lot of which is more than the minimum lot size required for an Additional Dwelling Unit in the E-1 zone district, as described in Sections III. and IV of this Staff Report. The new structures will comply with all ordinance standards of the E-1 Zone including height and setbacks, parking and open yard, as described in Section IV.

- II. Said approval is subject to the following conditions:
 - A. The two existing oak trees (20" and 24") on the east side of the property shall be preserved, protected, and maintained. The recommendations for tree protection during construction, including the suggested changes to the plans included in the body of the arborist letter report from Westree dated August 12, 2010, shall be incorporated into the project and included in any plans submitted for a building permit associated with this project.
 - B. Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way or Greenridge Lane, unless specifically permitted by the Transportation Manager with a Public Works permit.
 - C. During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.

This motion was passed and adopted on the 10th day of March, 2011 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 4 NOES: 0 ABSTAIN: 0 ABSENT: 3 (Bartlett, Lodge, Jordan)

PLANNING COMMISSION RESOLUTION No. 005-10
1233 MISSION RIDGE ROAD
MARCH 10, 2011
PAGE 3

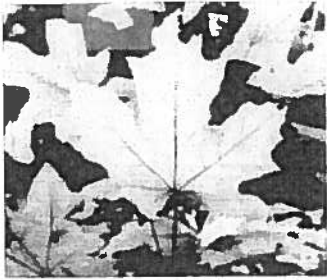
I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.

Julie Rodriguez, Planning Commission Secretary

Date

PLEASE BE ADVISED:

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.



Peter Winn

P.O. Box 22702

Santa Barbara

CA 93121

805-966-3239

Cont. Lic. #772299

WESTREE

August 12, 2010

Tom Sanborn
1233 Mission Ridge Road
Santa Barbara, CA 93103

RE: Trees potentially impacted by proposed new residence and guest house.

Dear Tom,

As per your request, this is a report addressing the tree protection necessary for the existing trees on site during the demolition and rebuilding of the proposed new residences.

The site currently only has two Coast Live Oaks (*Quercus agrifolia*) located to the west of the existing house that will need to be protected during the project. There is one Phoenix Palm that is not of concern from the construction but maybe relocated on site according to the grading plan.

Of the two Coast Live Oaks, the 24" dbh (diameter at breast height) located on the edge of the existing lawn and to the south of the proposed guest house is in good health and condition, making it a wonderful asset to the property. In addition to the attached tree protection measures that must be adhered to, I would like to ensure the drainage from the rain gutters and hardscape surrounding the guest house does not drain to the root zone of the Oak tree. I would recommend less water loving plants and more native plant material to be used within the root area. Otherwise, I do not see any harm coming to this tree.

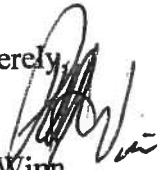
The second Coast Live Oak, a 20" dbh tree in average health and condition is located on the edge of the existing concrete deck. This tree will have the breakfast nook built on the edge of the drip line so I would like to see some form of engineering done with the foundations close to the tree such as caissons and grade beams to minimize any root damage. The deck will be replaced with some form of permeable material or pavers on sand. As with the other Oak, I would encourage more native plant material. Provided all attached tree protection measures are adhered to I feel this tree will not be adversely impacted.

RECOMMENDATIONS FOR TREE PROTECTION DURING CONSTRUCTION.

- Fence off all trees from construction at the critical root zone or where practical with 6' chain link or orange construction fence with metal stakes.
- No activities or storage of construction materials shall be allowed within the fenced areas unless approved by the project arborist.
- Any root disturbance to any of the protected trees shall be done by hand and the project arborist alerted.
- All roots encountered shall be cut cleanly with a sharp saw to allow for new root regeneration, backfilled immediately or kept moist to prevent drying out and dying.
- Any tree affected by the construction process shall be deep-root fertilized to promote better health and vigor.
- Compaction of the root zone shall be avoided by spreading 3-4" of mulch. If necessary plywood or equivalent shall be placed on top.
- During hot, dry periods the foliage may need to be washed with high pressure water to remove construction dust.
- Project arborist shall be notified prior to any activities within the critical root zone.
- All trenching of utilities, irrigation and lighting shall not encroach within the critical root zone unless approved by the project Biologist or Arborist.
- Native or Specimen trees removed or damaged shall be mitigated, utilizing the current County recommendations of either 10:1-1gallon, or 5:1- 15gallon or 3:1 24"boxed trees.

Should you have any further questions or comments please do not hesitate to call my office at 805 966 3239.

Yours sincerely,



Peter J.H. Wirm
I.S.A. Certified Arborist #921